

Impact Of Redundant Publications On Findings In Legal Research – An Indian Perspective.

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ABSTRACT

The prevalence of redundant publications in the field of research is a well-known fact. Although a lot of research has been carried out with regards to this deep-rooted menace in the field of medicine, very little has been done to depict the impact of such redundant publications in legal research. This article aims to bring out how redundant publications will have a bearing on laws, which are essentially a tool to maintain social order and hence are of paramount importance. This article also suggests remedial measures like sensitization, reliance on artificial intelligence, using deterrence as an effective tool, and looks as what should be the only metric to allow redundancy in publication, so as to try and ensure redundancy in published research does not hinder the expanding of the existing pool of knowledge, in turn ensuring effective formation and implementation of laws and thereby maintenance of social order.

Key words: Redundant Publication, Legal Research, India.

Introduction:

The field of research has been grappling with issues related to unethical practices in publication for a long time now. Redundant publication is once such form of unethical publication habit. It implies a situation where “*one study is split into several parts and submitted to two or more journals, or the findings have previously been published elsewhere without proper cross-referencing, permission or justification.*”¹

A researcher coming across articles that are similar with respect to their content, the specific area of study, and in some cases, the findings as well, is a common occurrence in the field of research. There were also instances where the same author's paper - with certain ‘cosmetic changes’ as they are called – but primarily on the same research phenomenon, appear in different journals. A researcher stumbling upon such a stich, is not just a matter of coincidence but is actually a much deep-rooted issue, challenging the very foundation of ethical research.

Rivew of Literature:

(Urbanowicz, C., & Reinke, B. A. 2018) bring out the different kinds on overlapping publications and the extent of the problem in the domain of medicine in general, and ecology and evolutionary biology in particular. They also looked at the probable reasons for occurrence of overlap on the field of research. A search of Web of Science Core Collection revealed that a whopping 75% of the articles falling under various synonyms of publication overlap pertained to the field of medicine.

An interesting cross sectional survey of authors and editors by (Yank, V., & Barnes, D. 2003) brought about a quantitative analysis of the reasons behind redundant publications in clinical research. The target sample as editors as well as authors publishing research in the field of clinical medicine. On the part of the authors, the enormous pressure on them to get their work published was paramount reason for redundant publishing, aided by the imperfections of the journals to publicise and take punitive steps against such actions. The authors and likewise the editors voiced that the journal should require the authors to sign disclosures to disclose or refute redundant publication.

Dr Yatendra Kumar Singh, Bipin Kumar Dubey (2021) in their book introduce the basics of violation of publication ethics – redundant publications included – and the steps publishers can undertake to address the menace. They put forth the idea that publishers should, with the help of detection software, scrutinise articles. Articles having an overlap of > 5% or a similarity quotient of > 50%, should be verified for publication misconduct, and if it is ascertained that such a misconduct has been resorted to, penalties should be imposed. Such penalties should include, amongst others, informing the institutions and funders with whom the author is associated with, associated with, release penalty documents on website, not acceptance of manuscripts submitted by the same research team etc.

A quantitative study of biomedical literature through “PubMed” – which facilitates search and retrieval of biomedical and life sciences literature – using “Retracted Publications” as a filter, was published, to highlight the universal nature of the self-plagiarism and duplicate publications, across 20 countries having 5 or more retracted publications during 2008 – 2012. The author brought forth the need to adopt different measures for different countries based upon the extent of the issue for ensuring adherence to publication ethics. (Amos, K. A. 2014).

(Brice, J., & Bligh, J. 2005) brought out the often-seen publication malpractices, based upon selection of a few cases studies, and have elucidated the probable reasons and its wide-ranging implications of the same. They have also suggested responsibilities of researchers to themselves, to their co-authors and colleagues, to their area of study, and also to the ones’ reviewing and editing the research. It also brings to fore that all those who are affected by such practices have to share the onus of promoting and monitoring ethical publishing, and unless the same is done, these issues with unethical publications will not be arrested.

(Singhal, S., Kalra, B.S. 2021) discussed different kinds of unethical practices in research along with how a writer can fulfill his responsibility to ascertain that the credibility of the research is maintained. They also stressed upon the need for extensive training and proper guidance as a basis of addressing malpractices in research including at the post graduate and the junior researchers’ level.

(Horbach, S. S., & Halfman, W. W. 2019) hypothesized that the more the number of authors in a paper, the more are the chances of overlapping text, the lesser the scientific age of the author, more are the chances of improperly recycling text. Based upon the results they argued that authors who publish their papers with fellow co-authors are more at risk of recycling the work done beforehand and that the possibility of an author recycling his text increases with the seniority of the author.

A lack of universal protocol in determining what constitutes redundant publications and related self-plagiarism, was cited as one of the reasons for the absence of standards for determining what constitutes unethical publishing. With the help of a case-scenario, the study also highlighted, that despite the fact that artificial intelligence tools like software which helps identify the duplication of text, has had a reasonable impact on identifying overlapping texts, their accuracy and financial implications of using such tools, have dented their effectiveness to curb the menace of redundant publishing. (Burdine, L.K., et al 2019).

(Moskovitz, C. 2018), while bringing out the classic debate between those who vehemently dislike recycling text in the field of research and those who claim that some such use cannot be avoided, and in some cases may even prove beneficial to the reader, put forth an argument that it is practically impossible to have a clear line of distinction between what is acceptable or otherwise in terms of redundant publishing and recycling of text. The need to do so is more often than not legitimate. The author also brings forth the ineffectiveness of citing and rephrasing in helping and satisfying the readers, and also suggests mathematical thresholds allowing recycled texts.

(da Silva, J. A. T. 2020) brought to fore that authors who primarily are not English speakers, sometimes are tempted to reproduce their work in their native languages. The study acknowledges the benefit of publishing a study in two or more languages, considering that it shall benefit a wider audience, especially in countries where readers prefer to read in their native languages, but stresses upon the need for properly referencing such work, to ensure that the editors and readers are aware of its prior publication, albeit in a different language. The author also suggested encouraging a multi-lingual peer review as a probable answer to the problem.

Research Objectives:

- To ascertain the scope and extent of redundant publications in ethical research.
- To ascertain the impact of redundant publications on findings in legal research and way it would influence the shaping of the legal jurisprudence in the Indian context.
- To suggest measures to address the issue of redundant publications in ethical research.

Research Questions:

- What is the scope and extent of redundant publications in ethical research?
- What is the impact of redundant publications on findings in legal research and how it would influence the shaping of the legal jurisprudence in the Indian context?

- What are the measures that can be adopted to address the issue of redundant publications in ethical research?

Limitations of the study:

The study is limited to ascertaining the scope and extent of redundant publications in ethical research and the impact of redundant publications on finding in legal research in the Indian legal jurisprudential context only.

Research Methodology:

The study is based upon doctrinal research. For the purpose of this study, I have relied upon research articles and seminar papers published in reputed publications and journals and also on decided cases of the Supreme Court of India.

Findings and discussion:

There have been various studies that have been carried out on the existence and the far-reaching impact of redundant publications in the field of medical science and clinical research, but very little seems to have been done with the impact of such redundant publications in the legal research domain. In this article I aim to bring about impact of redundant publications in the field of legal research, and suggest steps to address the issue.

It is common knowledge that law is a tributary of social science. Law is often referred to as a 'living organism', implying its ever-evolving nature. The very premise of framing a law, a¹ legislation, rules, regulation etc., is to maintain social order. As societies evolve, laws have to keep pace with the societal changes to address the challenges put forth by such changes. This very ever evolving nature of societies, has necessitated the introduction of new laws or amendments to existing legislations to maintain order in the society.

As laws exist in every domain of the societal fabric (well almost), and the spectrum of laws is as diverse as it can get - be it criminal laws, fiscal laws, commercial laws, international laws, just to name a few- the making or amending of such laws need to be aided by solid research to determine the shortcomings in their existence or their complete lack as such. For instance, Section 377 of the much-revered Indian Penal Code², drafted under the chairmanship of Thomas Babington Macaulay in 1860, criminalized homosexuality as doing so appealed to consciousness of the society then. As our society evolved, on 6 September 2018, the Supreme Court of India, in a unanimous decision in *Navtej Singh Johar v. Union of India*³, held that the said section was extraconstitutional to the extent that it as it outlaws mutually agreed physical relationship between people of the same sex, who have attained the age of majority, and declared it ultra vires to the constitution. As the issue involved travelled from the Delhi High Court all the way to the Apex Court, the courts relied upon research and surveys conducted in this field, both at the national and the international level. Fathom in the possibility of some or all of these researches having an element of redundancy in them. Would they have depicted the true picture as it existed in this point in time? As a result, would the courts have arrived at the verdict that they did? The answer to these questions is a probable no.

Another point in reference can be the domain of cyber laws. The very nature of offences in the cyber space, with the intricate technicalities involved, are so complex, and undergo such rapid changes that any policy decisions that are taken basis any redundant research will prove to be just a box ticking exercise, without any bearing on the desired result of such policies. The research in this domain has to be ever evolving as new challenges are posed practically each day. The Information and Technology Act 2000⁴, in its initial avatar was only to recognise e-commerce transactions. Over a period of time, taking note of offences committed the horizons of the Act were expanded making certain offences punishable under it.

Many such parallels can be drawn in various fields, be it Fintech Laws, Corporate Laws, Criminal and Reformatory Laws, Bankruptcy Laws, Alternate Dispute Resolution Laws, Banking Laws, Insurance Laws, Bancassurance Laws and even Constitutional Laws. Hence, it is paramount that research that is carried out in the field of law, which in turn has a direct bearing on the maintenance of order in a society, has to be contemporary and the existence of redundancy in a legal research publication would not only prove to be of very little utility, but might also be disastrous when it comes to protecting the social fabric of any society.

Suggested corrective measures:

Having looked at redundancy in research publication and its possible impact on laws, this article aims to suggest the following steps to try and curb this unethical publication practice (no necessarily in the order that they appear).

² The Indian Penal Code, Act No 45 of 1860, available at <https://www.indiacode.nic.in/bitstream/123456789/2263/1/aA1860-45.pdf>, last seen Oct 30th 2022.

³ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

- Guiding Researchers:

Picking up from (Singhal, S., & Kalra, B. S. 2021) where they suggested training and guidance at the post graduate and junior researcher level, I suggest the values of ethical representation of one's own knowledge be inculcated from the school level. These kids should be taught the perils of copying and plagiarizing from the grass roots level. They should be sensitized that such unethical practices will at best bear short term gratifications, but over the long run, there is only a downside. This would ensure that these values are firmly cemented in their thought processes, as some of them grow up to be researches in their chosen field. It is very difficult to unlearn and wade off values that have long existed in one's system, especially those which have taken root from the formative years.

- Artificial Intelligence Tools:

Using the boon of technological advancements to its optimum possible utility will go a long way to curb the menace of redundant publishing. There is no doubting that a lot has already been done in this area, with artificial intelligence tools being used to detect such practices, but it is also true that a lot more needs to be done. Taking such tools up to a near perfect level would imply huge costs upon publishers, which in turn might have a bearing upon the authors. Having said this, looking at the benefit that the research community would derive from it, the costs seem justified.

- Deterrence works:

Deterrence, as a theory of punishment, has been long widely debated. People opposing this theory have long wanted focus to be shifted from deterrence to reformation. However, what needs to be taken into account is that where voluntary submission to laws, rules, regulation is not a commonality – whatever the reasons for such non-submission be - the fear of sanctions surely would play their part. Hit it where it hurts. After being given an opportunity of being heard to present his side of the story, the researcher who is found resorting to unethical publication practices should be subject to exemplary punishments. These punishments could probably include banning the person from publishing his work for a few years. There is nothing that will hurt a researcher more than when his body of work does not reach its audience and lacks peer review. Leave alone the resultant monetary loss and other career related prospects.

Having said this, it is essential to state that, before the researcher is doled out with such a punishment, a proper form be established to execute the process of screening and establishing unethical practice and also gives a chance to present his case. These punishments cannot be arbitrary in nature and definitely not at the expense of principles of natural justice.

- Value addition as the only metric for justifying redundancy:

(Moskovitz, C. 2017), suggests mathematical thresholds allowing recycled texts. I do not agree with assigning any such numbers to allow such texts. Can there ever be a rationale to assigning numbers to allowing redundant or recycled text in research? Why 10 % or why 50%, why not 2 % or may be 15%?

In my opinion, the basic premise of any research is the idea that every research attempt - be it in form of a research paper, an article, an editorial or a thesis – should assist in evolution of the subject matter of research, into something that widens the horizons of an already existing pool of knowledge relating to that area or research. This precise value addition should be the only permissible metric for allowing redundancy in publication (with proper referencing of course). As long as it attains this goal, redundancy should be permitted. On the flip side, whether a research work adds value or not is a subjective aspect. What might seem as value addition to some, might not appear so to others. Having said this, there surely would also be a consensus to its utility on many occasions. The problem will be solved to the extent of such consensus, if not in its entirety.

Conclusion:

After having understood the deep-rooted issue of redundant publishing and its probable impact on law, it would be wishful thinking to say that we can get rid of it completely, at least in the near future. Curbing the menace to the maximum possible extent would be the step in the right direction as a starting point. I acknowledge that none of the steps suggested hereinabove, might be able to address the unethical issue of redundant publications on their own. What we need is a combination of all of the above. I also acknowledge that it is highly improbable that any system of operation or control can ever be full proof or perfect. But there is always a possibility of improving to be in tune with the changing times based upon past experiences. The way we handle redundant publications in law is no exception.

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