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## **Graffiti – eyeeful art or eyesore vandalism**

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**Abstract**--In this article I am aiming on define Graffiti and unfolding the knot of confusion that whether it is eyeeful art or eyesore vandalism. In layman language we can say that graffiti is an exercise of unlawful painting or writing any openly visual surfaces, but this practice of marking or painting is not new in fact it dates back to the beginning of society or civilization. Graffiti in its recent form is a shared or community artistic phenomenon that began in 60s in Philadelphia and New York, and now has full-fledged spread into an international lobby. If we ever notice or focus on graffiti on the road sides or on publicly visible surfaces, what kind of feeling do you get? either you feel amazed and admire the beauty of the art work or you will feel annoyed, discourage the work and consider it as vandalism, but the fact is that the definition of art is different according to different person (the beauty is in the eye of the viewer) and another fact is that a decent art work is rarely discouraged by anyone. Sometimes art fans consider graffiti as a danger to art and public spaces as well, they don't like concept of exhibiting artwork on pedestrian places for them Art is something that portrays emotions of artists and that is why they expect it to be shown in secure places or on canvas, paper but I personally think that it is a kind of contemporary art which boosts the artists to paint sensible, expressive and sober designs on public places. In present scenario there is a intense debate that focus on the initiation of graffiti art.

**Keywords**--Graffiti Vandalism Street art.

### **Introduction**

What is Graffiti

Graffiti (both singular and plural; the singular graffiti is rarely used except in archeology) is a type of art genre that means writing or drawings made on a wall or other surface, usually without permission and within public view. The expression Graffiti was devised from an Italian term "graffito" that says "scratched" that means an art narration by scratching a shape or design on a publicly visible surface.

The word Graffiti was initially referred to ancient inscriptions like words, shapes, figures, designs etc. on the walls of ancient public sepulchers buildings. Now a days the word Graffiti is tantamount with vandalism.

### Historical Background

The word graffiti was initially denoting to the graphics, inscriptions, designs, figure, marks etc. located on the publicly visible surface of ancient buildings like Catacombs of Rome or at Pompeii.

Graffiti was a source or kind of the Sufaitic language (the South Semitic or Arabic scripts), impressions were scratched on stones, rocks and other structure surfaces in basalt desert of southern Syria, northern Saudi Arabia etc. and this Sufaitic language dates long back from the 1st century BC to the 4th century AD.

On the basis of research, we can say or assume that "contemporary style" graffiti exists in Turkey (the ancient Greek city of Ephesus). The Localists attendant opines that it's a prostitution ad generally positioned adjacent to stone pathway, that Graffiti displays hand printed heart, lady head, footmarks and a number.

In Egypt we generally find the ancient Romans engraved graffiti on parapets and monuments which still exist. The implications of Graffiti in present scenario is quite different as they manifest social and political ideals than the classical world which used to exhibit expressions of love or political statements or general texts of thought.

The custom of painting in India in publicly visible places is quite old in fact the paintings in Buddhist cave in Ajanta noticed in 1819 that is in second century BC (Mitra, 2004) is the oldest evidence of graffiti which is a significant fragment of Indian art history inspiring artists and sculptors for generations then the Folk art became popular and often seen on the walls of tribal community's homes.

The streets Cultural marking also has long occurrence in almost all countries though the manifestations style has been pretty different and unique like, the hand painted pictures of gods, Bollywood movies and stars posters, vehicle art (images or slogans), political graffiti.

### Graffiti as an art

Many times, we notice numerous Indian artworks or paintings on the publicly visible area, but we never consider it as vandalism, why?

It is because, Art provides different resolutions to different individuals as per their personal constraint, like for some people it serves a feeling of motivation, consolation and on other hand for some it provides feeling of discomfort and instability grounded on their level of interpretation. Above all the Studies state that colors and pictures arouse feeling and emotions, so as per the scientific studies we can say that, art boosts human feelings and emotions and motivate to think. We can aptly say that even a small piece of art is precious and it attracts humans because it boosts our emotion or feelings centers and intellectual centers.

But generally, people think that art is limited to the canvas, room, or an open space of privacy where artistes represent their creativity and skills through their work and take it as passion of the elite class who go to galleries and pay higher amounts to buy some flawless artwork. But the fact is an art is an art even if the design is created on wall or any publicly visible area will definitely not decrease the soul of that art or aptitude of that artist.

In present scenario graffiti is taken as a way to aware the public about both the good as well as the negative or ugly sides of society. Graffiti manifest independence and a lifting of persons who object against the ugly practices of the society that are still in existence and performed by people .

The typical description of graffiti is art:

In a leading case “Williams versus Cavalli” the court said that: -

“Plaintiffs are well-known and respected graffiti artists. In 2012 plaintiffs created a mural in San Francisco. [...] The mural depicted the stylized signatures of “Revoke” and “Steel” pseudonyms commonly associated with plaintiffs” .

Presently, there are many graffiti artists who are well known and respected for their stunning work and striking thinking, in fact now the many art lovers agree that graffiti art is required to be preserved, live and bloom.

#### Graffiti as vandalism

In many countries the authority thinks and considers the designs or paintings or any form of work that is done on publicly visible area is vandalism as it causes destruction to that property. A survey was conducted by the Australian bureau of statistics which provides that not only the authorities and cops considered graffiti as vandalism but also the people find it the same. The survey provides that more than 20% person find graffiti on roadsides as disturbing and unsafe.

In a very leading case “State versus Foxhoven” the graffiti was described as a criminal act:

“The state alleges that each vendor had adopted a distinctive (pseudonym) and vandalized property with that you need to talk again and again for years until it had begun their vandalism identity”.

Some people and authorities believe that graffiti puts a bad effect on people and also distract them from their work. People also think that government uses a lot of public money for restoring public places where graffiti artists leave their designs and colors rather it should be used for public welfare and common good.

#### Laws On Graffiti in India

There are no specific laws for Graffiti in India the only profession that relates to graffiti exist in the Constitution of India under part IV, which provide directive principles of state policies.

Article 49 provides that State is under obligation to protect all monuments or place or objects of Nationwide importance from destruction, degradation, pollution, or from any harm whereas part IV A of Indian Constitution provides fundamental duties that are expected to be practiced by all citizens of India. Article 51A-F provides that “it shall be the duty of every citizen to value and preserve the rich heritage of our composite culture” article 51A-I provides that “it shall be the duty of every citizen to safeguard public property and to adjure violence” these two provisions provides that it is the duty of both the state and the citizens as well to protect the aesthetic beauty of the nation and prohibit all the harmful act that might effect any historical structure and anything of national importance.

Now we can say that the difference amid art and graffiti is very delicate that one have to put more focus and sincerity to distinguish, that the work done comes under art or vandalism. Though the graffiti is a form of art through which a person can soberly intimate his positive thoughts to public at large in a positive way but just one wrong step (design or pattern) can change the entire meaning of that artwork and convert it to a vandalism.

Nowadays the artists of Graffiti seek legal protection and remedies in copyright laws but in India the copyright law are deficient of appropriate and sufficient provisions to provide copyright to Graffiti art as it is presumed that any kind of art work is mostly encouraged by the viewpoint of monetary profit and to sometimes by the wish of acknowledgment but in case of Graffiti art the artist mostly don't anticipate any financial gain and generally stay unidentified, we can say that the remedies that copyright law provides to public at large should also be shared with the graffiti art creators as in a way or other they also manifest human creativity which is one of the core essential of copyright law.

In “Villa v. Pearson Education” Pearson Education was sued by Hiram Villa (graffiti artist) for utilizing petitioners' methodology straight in his computer game and later Pearson strived for claim rejection by asserting the illegitimate impression of the work, unqualified for copyright insurance but the court denied and stated that “the illegality of the art was fact-dependent and not appropriate to address at that stage”.

Then in a very leading case “Mitchell Brothers Film Group v. Cinema” also known as The Fifth Circuit case where the copyright of an exhibited adult motion picture was owned by the petitioner without permission and when petitioner sued for the infringement copyright the respondent alleged that because of the obscenity of the content the work was not qualified for copyright, further the cinema stated that on the bases of unclean hands doctrine Mitchell could not sue, the respondent also argued that motion picture of petitioner was indecent and hence illegitimate, that is petitioner lacks the clean hands requisite essential for clamming the legal remedy underneath copyright law. Later The judges overruled Respondents argument and upheld petitioner's copyright.

Similarly, in “Creative Foundation v. Dreamland” this case was where the dispute mainly alarmed about who owns or holds the wall that retains the Banksy mural but the judge concisely stated that the creator of the artwork, that is the

anonymous or unidentified street artist by righteousness of his moral rights own the copyright of that work. Then the questions that arises -is street art copyrightable and if yes, then up to what extent?The judges modestly held that Banksy or the artist or creator of the artwork is eligible to gain his financial interest by receiving a share of the profits from the sale of the artwork of the creator as mentioned by the “Artists Resale Right”(an ancillary right, not exactly a copyright).

### Graffiti and Copyright

Copyright is a kind of insurance issued to licensed innovation and security under this right is accessible only for unique works like paintings, literary works, software, movies, live shows and photographs. It is believed that Art is intangible by its very nature that's why a mural that exist at one place can easily be reproduced by anyone in form of his expressions in movies, books, advertisement etc. so to protect this form of art work or intellectual property, copyright (artist's exclusive rights) is Introduced.

In a way we can say that copyright law is a law that gives responsibility of the artwork on his creator. Whatever it may be a painting, a novel, a song lyric, movie script, a photo, etc. the copyright law guarantees the proprietorship. Few rights that copyright law awards, as the proprietor are: -

“The right to replicate the work”

“To get ready subordinate works”

“To appropriate duplicates”

“To execute the work”

“to show the work freely”

Graffiti is a noteworthy art warranting copyright guarantee just like other art forms. A lot of graffiti artists now go to exhibitions with canvas works, but still many live simply in the city anonymously.

Though many graffiti artists don't want public acknowledgment but their artwork still needs guarantee from copyright law for monetary gain. Woefully, the current copyright law does not provide any kind of assurance to the graffiti artists because of its illegal character

Cathay Y. N. Smith explained it very nicely, she said that:-

“Street art is being duplicated and reproduced on clothing posters, business things, and being shown and sold in auction and displayed in galleries. Urban areas, for example, Bristol, Bethlehem, and Taichung, are grasping street art by offering guided tours to flaunt their celebrated street art, street art is turning into the following huge thing in the art world and market. As street art advances into ware, the inquiry normally is: who possesses street art, and ought to IPR law

shield street art from unapproved duplicating, evacuation and deal, or annihilation?”

“Hanrahan v Ramirez (1998)”, in this case a mural was painted on the side of a liquor shop by a group of children after taking the owner's approval but three years later the owners of that store painted his advertisement over half of that mural and then the artist sued the store owner under VARA (Visual Artists Rights Act) and the court said that the artist should have been recognized status because their art work has won a national contest which was supported and praised by people at local and national level that's why the judges gave decision for restoration of the mural and awarded \$48,000 to the artists .

The moral rights and copyright of the street artists may be infringed if anyone who uses their artwork without their permission like highlighting the street artwork on one's website, for commercial benefits photographing or publishing the artwork in an advertisements and magazines or etc.

In Mangaluru a “Pro-terror graffiti” case was spotted at an apartment wall, later the Mangalore city police had gone through a deep investigation regarding the, as per the police findings the graffiti over the wall says “do not force us to invite Lashkari-Taliban and Taiban to deal with Sanghis and Manuvedis”, “#LashkariZindabad”. So, such kind of lettering or graffiti doesn't come under artwork which is considered under copyright act.

### Conclusion And Suggestion

Any artwork whether it is a painting displaying vibrant colors and stunning patterns on canvas or on wall (Graffiti) or a sculpture or a sketch is the expression of the artist's mind. The fact is that the genre or pattern or kind of art does not agitate or change the true spirit of art at all,

Likewise, what the artist is using, a canvas, broadsheet or wall of a building as a source for their manifestation is immaterial. The problem is that people don't accept that they are already viewing much uglier things in their common surroundings than graffiti. I am mainly focusing on the lettering, posters on the walls, hoardings, flagpoles, open trash etc. on public spaces. Infact People really need to understand that graffiti is a form of art or a way through which the artists can express their positive thoughts in a sober manner in front of public at large but unfortunately in present scenario the maximum public place or spaces are already owned or acquired by bigger companies and political parties Because these two offer a big monetary profit whereas the graffiti artists provide nothing, that is why generally people consider graffiti as vandalism. In my humble opinion Graffiti is far much better than these commercial posters hoardings lettering etc. as graffiti manifest much more meaningful expressions than these useless lettering, posters on the walls organized in a very mismanaged way and causing a true visual pollution. In present scenario all that is required is the recognition of Graffiti art by the higher authorities, so that they can make a proper law for graffiti art, its protection and restoration, the artists right, the right of general people to have a scenic and beautiful environment.

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