

RIGHT TO REPAIR – A CONSUMER RIGHT

S Thulasi Ram(STR)

Advocate

**Cyber Laws NALSAR, Crimes Forensics NALSAR Property, Income TAX-GST,
Family, Criminal, Service, Consumer, and Labour Matters.**

WHAT IS THE RIGHT TO REPAIR?

Activists and organizations from all over the world have been advocating for the ability of customers to repair their own electronics and other products as part of the "right to repair" movement. The trend began in the 1950s, just at the dawn of the computer age. The rise of the computer era led to the rise of materialism in the people, and by using this feeling of being updated with new devices as a weapon the multinational companies have hiked their prices so much, there is a marginal difference between the cost of repairing a device or buying an updated version of the same.

The movement's purpose is to persuade large and worldwide corporations to make replacement parts, tools, and knowledge on how to repair gadgets available to customers and repair shops so that goods have a longer lifespan and do not end up in landfills, resulting in less pollution and spending. If this movement of right to repair succeeds it would give an economic rise to the local rise. This one step can host companies' economy as repair shops are found on every nook and corner of the city and if they get such confinements on daily bases they would ultimately contribute to the country's economy.

They claim that these companies are creating a culture of 'planned obsolescence,' which means that items are made to last for a particular amount of time before being replaced. They believe that this puts enormous strain on the environment and wastes natural resources. Electronic gadget manufacturing is a highly polluting operation. It uses polluting energy sources, such as fossil fuels, which have a negative influence on the environment.¹

According to manufacturing data published by Apple, the materials needed to produce an iPhone "represent nearly 83 percent of its contribution to the heat-trapping emissions in the atmosphere during its life cycle," according to a New York Times report. For the average washing machine, it's around 57%.

According to proponents of the right to repair, small repair shops, which are an important part of local economies, will gain from this. They argue that if a company has a repair monopoly,

¹ Atasu A, Sarvary M, Van Wassenhove LN (2008) Remanufacturing as a marketing strategy. Management Science 54(10):1731–1746.

costs will skyrocket, and quality will degrade. These campaigners emphasize the importance of price as a crucial factor. Due to a lack of competition in the repair industry in the west, consumers are unable to make informed decisions.

Consumers usually spend a significant amount of money on these appliances and devices, only to discover that they are obsolete a few years after purchase. A smartphone's battery, for example, is likely to degrade with time and reduce the device's performance. If the battery can't be replaced, the buyer is compelled to throw away the phone and pay thousands of rupees on a new one.

SIGNIFICANCE OF “RIGHT TO REPAIR LEGISLATION” :

1. Regulate the repair costs
2. Obligate manufacturers to produce repairable products instead of goods which needs to be fling.
3. There shall be maximum variation between repair cost versus buying new product thus people do not get swayed away with exchange offers
4. “Repair where you had purchased the product- concept” - Mandates on Manufacturers to have a repair facility in the place where products are being sold.
5. Encourages the “culture of using the instead of replacing it”
6. Encourages concept of consumer centric instead of otherwise

CONCEPT OF RIGHT TO REPAIR IN INDIA AND AMERICA

AMERICA

In his executive order to foster economic competition, President Biden asked the Federal Trade Commission to compel tech corporations to allow consumers to repair their own electronic equipment -- either alone or with the help of a professional of their choice. He singled targeted cell phone and tractor manufacturers in the White House fact sheet. Electronic gadget manufacturers, some believe, may begin to make their products as a result of this.²

As of 2021, nearly all 50 US states had proposed a right to repair measure, but only Massachusetts had enacted it. According to state law, vehicle manufacturers must submit information about repairs to owners and independent repair facilities for any vehicle built in 2015 or later. Despite the fact that the law is only in place in Massachusetts, it has been obeyed by most car manufacturers since then.

² Agrawal VV, Kavadias S, Toktay LB (2016) The limits of planned obsolescence for conspicuous durable goods. *Manufacturing & Service Operations Management* 18(2):216–226.

The Alliance for Automotive Innovation, which represents General Motors, Fiat Chrysler, and other manufacturers, has filed a lawsuit challenging the law and any future amendments that would allow for more access to mechanical and electronic repair data. According to them, exposing data poses serious cyber security dangers. Bills proposing the right to repair in numerous US states address a wide range of issues. In Florida and South Carolina, for example, the proposed legislation focuses on agricultural equipment, but in California, the legislation concentrates on medical equipment.³

Because nearly all of the states' legislative sessions for 2021 have finished, the proposed bills will not become law this year. In New York, a proposed Fair Repair Act made it all the way to the state senate. It will not be voted on until January of the following year because it arrived in the state legislature on the last day of the session.

INDIA

The widespread use of pre-owned devices and pirated software for word processing, design, and other jobs is a relatively new phenomenon in India, and pre-owned devices and pirated software for word processing, design, and other duties are widely used. In India, similar regulation will ensure that minimum programmed download criteria are correctly calibrated for the average Indian user. This would necessitate providing regional language options as well as legacy device support. For the purpose of maintenance, a particular exception to software locks should be provided, allowing consumers to copy software to maintain or repair their equipment. The Indian Competition Commission, the Ministry of Electronics and Information

Technology, and other organizations should rapidly collaborate to develop rules to encourage the right to repair.⁴

Regrettably, no such regulation exists in our country. The Competition Commission of India (CCI), on the other hand, In August 2014, the case of Shamsheer Kataria v. Honda Sael Car India Ltd.⁵ was announced, which held 14 automotive manufacturers accountable for anticompetitive activities and abusing their dominant position by not making spare parts available in the independent resale market. As a result, buyers have no choice but to employ approved dealers' services. Original Equipment Suppliers (OESs) were mandated by the CCI to develop an effective system for selling genuine spare car parts in the open market, as well as an effective system for ensuring the public availability of aftermarket spare parts, diagnostic tools, and other essential information. The CCI order allowed customers to choose between independent mechanics and authorised dealers, as well as assisting independent mechanics in providing aftermarket services and ensuring healthy market competition. As can be observed, the court's decision was in line with the 'Right to Repair' Act to some extent.

³ The hindu, <https://www.thehindu.com/sci-tech/technology/right-to-repair-movementexplained/article35440170.ece>

⁴ Right to Repair: Pricing, Welfare, and Environmental Implications, Chen Jin, Luyi Yang, Cungen Zhu. SSNRI3516450.

⁵ Shamsheer Kataria v. Honda Sael Car India Ltd, C-03/2011

RIGHT TO REPAIR AT A REGULATED PRICE ON ELECTRONIC PRODUCTS

The right to repair electronics refers to proposed government legislation that would give equipment owners the practical ability to repair their gadgets, even if those items contain a digital electronic component. While repair is permitted under copyright and patent law, advocates point out that manufacturers' restrictions on access to repair materials such as parts, tools, diagnostics, documentation, and firmware often prevent owners from completing their own repairs or hiring experts they trust. As a result, manufacturers have more control over repair.

This would also regulate the prices of the electronics products as the competition in the market would increase and would lead to greater quality at an affordable price, if the manufacturing and repairing of such devices would start in the local markets the price will for sure reduce as the monopoly of huge electronic companies will come to an end. For example, the phone which cost 30,000 earlier would now only cost 20,000 as the branding cost is reduced. The repairing

costs of these electronic devices are kept so high that a person also shifts to buying a new phone instead of getting the old one repaired as the repair costs are relatively high and sometimes very close to price of such new product. Thus, the customers are attracted towards the new and upgraded system of the new devices.⁶

Hence, on the right to get our electronics repaired from our local market is attained. It would lead to the development of the whole market and increase in income as well as saving. This trend to invisibly forcing customers to buy latest devices has led to materialism and has later used this materialism for their own benefits by increasing repairing costs. Every single part of such devices has bucked prices and are not easily available.

WHAT ARE THE PROBLEMS FOR IMPLEMENTING RIGHT TO REPAIR

Few businesses today are familiar with the complexities, size, and problems of standardized telemetry data for use across industries. Experience and infrastructure for processing telemetry data quickly are required. Though the use of standardized telematics data has exploded in recent months, it has been a joint effort by technology suppliers, insurance carriers, and manufacturers to use telematics to transform how an industry operates. The data flow is quick and consentbased, but the data is read-only. One of the key challenges that auto manufacturers and repair facilities may face is overcoming the read-only requirement. Here are several more.

⁶ The financial express read to lead, Right to Repair: What is it, why Apple is resisting while co-founder Steve Wozniak is supporting it, Bulbul Dhawan, August 08, 2021.

- **Consumer consent management:** Vehicle owners in Massachusetts must consent to the sharing of data about their devices under Massachusetts law. Transparency regarding what data is gathered, how it is acquired, saved, and used can also help consumers feel that the Original equipment manufacturer (OEM) is looking out for them and wants to give them the best possible experience. One consumer, for example, may be glad to provide information on how often and how hard their vehicle's brakes are deployed, while others may not.
- **Data collection, ingestion, and standardization:** The new regulation mandates that the OEM supply data in a uniform format. To accomplish so, the data to be collected

must be clearly specified, consider OEM variances, be securely communicated, and be standardized for use by the device owner and chosen repairer.⁷

- **Entity management:** The new rule allows independent repairers access to repair data with authorization, but capacity must be created to allow for seamless data request and delivery to those permitted parties. It is possible to construct an app in a short period of time. Network integrations, in which data finds its way into workflows and reaches its intended receivers, will be more difficult.
- **Permissions:** Consumers will have to choose whether to make repair-relevant telemetry data available eternally or for a specific repair period. Consumers should be informed about what they are signing up for through clear guidelines. When such repairs are done in the local market there is always a threat to privacy
- **Data security:** Consumers must be certain that the repairer with whom they've chosen to engage has the necessary data security in place to send data.

One of the most significant issues associated with Right to Repair legislation is security. The Security Industry Association (SIA) has been keeping a close eye on legislation and has expressed worries about the laws and the security threats they pose. Allowing customers to repair their own devices rather than having OEMs repair them internally, according to the Security Innovation Center, will result in lower costs.

⁷ Alev I, Agrawal VV, Atasu A (2020) Extended producer responsibility for durable products. Manufacturing & Service Operations Management 22(2):364–382.

- **Consumer satisfaction issues:** Many aftermarket businesses purchase the rights to manufacture parts from the OEM, but some do not, resulting in immediate quality and safety concerns. Convenience and affordability come with Right to Repair legislation, but at the expense of quality standards. Third-party non-OEM parts may compromise brand safety and customer happiness right away. Manufacturers should consider informing consumers about where they can get components and avoiding third-party distribution companies that violate part quality and safety laws.⁸

ADVANTAGES AND DISADVANTAGES OF 'RIGHT TO REPAIR'

ADVANTAGES

1. **Help boost business for small repair shops:** - Right to repair helps in boosting small business which is an important part of local economies and helps in overall economic development. The small repair shops get an opportunity to work more and increase their revenue as all the repair work will be done by them instead of the big multinational companies. And if the development of such parts starts at the local level it will be more feasible.
2. **Environment friendly:** - Help reduce the vast mountain of electrical waste and associated Land, Air and water pollutions. Presently the repair cost and the cost of a new device has minimal differences and hence the consumer prefers to buy a new device with updated applications and software instead of getting the old one repaired. All these discarded electronic devices are then dumped into landfills and increase pollution in the environment and also emit harmful toxin substances which have adverse effects on the living organism too. This would be changed and bring old ones getting repaired would be Environment friendly.
3. **Intergeneration Equality:** - The concept of Intergeneration Equality would be realized as Right to Repair would leave the environment in the same way we got or in a better way to future generations and would also lead to sustainable development.
4. **Save consumers' money:** - If the repair starts at the local market, it will automatically reduce the repairing cost, this step will also increase the competition in the market and once the competition increases the quality of products will increase and the prices would reduce to attract more of the consumers.
5. **Contribute to circular economy:** - Right to repair will also help in achieving circular economy goals by extending the life of appliances and enhancing their maintenance, re-use, upgrade, recyclability, and waste management.
6. **Protect jobs:** - Small repair shops may be seen on every street corner, in every neighborhood, and on every main street. Right to Repair would safeguard these jobs, the small independent businesses for which they work, and, most crucially, the right of their customers to pick them to repair their cars.

⁸ The Indian Express, <https://indianexpress.com/article/explained/explained-what-is-the-right-to-repair-movement-7400287/>

DISADVANTAGES

1. **Compromised safety of gadgets:** - Opening up their intellectual property to third-party repair services or amateur repairers, according to Apple, Microsoft, Amazon, and Tesla, might lead to exploitation and compromise the safety and security of their gadgets. The manufacturers also argue that the company already offer all necessary information for device repairs, but independent repair shops lack the necessary equipment and knowledge to service modern devices. This can be addressed manufacturers either establishing their own services centers in their products selling units only or tying up with local repair stops.
2. **Lack of technology:** - The difficulty is that not all small, independently owned auto shops have the equipment needed to identify mechanical problems in all makes and models. Larger dealerships can afford a high-tech factory scan tool, which is a diagnostic instrument that can discover mechanical flaws in any vehicle, regardless of make or model. Most individually owned businesses opt for the less expensive after-market diagnostic equipment, which lacks all of the information needed to diagnose all makes and models.⁹
3. **Potential to harm consumers:** - Enacting the law of right to repair will raise security and safety concerns since the knowledge needed to repair vehicles, replace parts, and utilize the keyless entry system would become widely available, making auto theft and system hacking easier.

EXCHANGE RATE OF OLD PRODUCTS :- A SHOCKING FACT

According to a recent study, 68% of Indian households sell their outdated mobile phones in order to upgrade to the most recent model. The program, dubbed "The Mobiles Exchange Program," will assist consumers in receiving a fair price for their old mobile phones in exchange for the purchase of a new device in the same category. This allows users to get products with greater specifications at a lower price.¹⁰

Though the multinational companies pay a lower price for the exchanged device, but I as I said this offer instigates the feeling of materialism. When the device is purposefully slowed by the

companies the consumer get it replaced with a new set as they can get discount through the exchanged products. This way the flow of devices is continued, and the multinational companies keep on earning handsome amounts but word of caution here is that thus deteriorating quality of environment

⁹ The Indian Express, <https://indianexpress.com/article/explained/explained-what-is-the-right-to-repairmovement-7400287/>

¹⁰ Agrawal VV, Atasu A, Van Wassenhove LN (2019) OM Forumnew opportunities for operations management research in sustainability. *Manufacturing & Service Operations Management* 21(1):1–12.

ENVIRONMENT ASPECTS ON REPAIRING A ELECTRONIC PRODUCT

“Right to repair” recommends that “reuse is the ideal green policy.” Repairing and reusing equipment reduces carbon emissions, trash, and much more.

Usable products and device components are frequently shredded or discarded rather “being rescued, repaired, and reused. Electronics must be optimized not only for the initial owner, but also for the third, fourth, and fifth owners through formal and informal reuse and repair. Old technology frequently becomes obsolete as a result of new technology. This implies that a lot of technology (also known as e-waste) ends up in the trash, causing severe environmental damage. Liquids and gases from discarded or buried products escape into the ground and atmosphere, contaminating natural systems.¹¹

Of the total 20 million tons of end-of-life electrical products on the planet, Americans contribute 3.4 million tons. To ensure that consumers' products are always up and running, manufacturers must optimize their after-sales service organizations and provide efficient and effective repairs. The money generated by an efficient service organization compensates for any potential drops in new product sales.¹²

Right to Repair legislation has arrived, and it is here to stay. While the legislation offer advantages and disadvantages, producers must be prepared to satisfy the requirements of their customers and have open discussions about the laws' ramifications. Consider having a product repaired if it becomes faulty or out-of-date. You will be able to use the product without needing to purchase a new one once it has been repaired. This not only saves you money, but it also has a positive impact on the environment over time.

HYPOTHESIS

In a country like India, where service networks are typically patchy and authorized workshops are few and far between in the hinterlands, a right to repair law could be beneficial. So, what needs to be done for further implementation of right to repair in India?

1. The Copyright Act of 1952 in India restrains the implementation of this act as it gives the right to Copyright holders to decide whether or not individuals can create copies of their software and whether or not they can alter it. And to overcome this, India must consider adopting the concepts of free and open-source software into applicable regulations, such as: To provide freedom to use software for whatever purpose the user desires and give the right to study and modify software for free distribute software copies.

¹¹ Drishti IAS, Biodiversity and environment, The Right to Repair Movement, 13 July, 2021. <https://www.drishtiias.com/daily-updates/daily-news-analysis/right-to-repair-movement-1>

¹² Agrawal VV, Ferguson M, Toktay LB, Thomas VM (2012) Is leasing greener than selling? Management Science 58(3):523–533.

- For example: if we get an I phone repaired from a local store the warranty of the device expires and also leads to copy right infringement. So, for the implementation to right to repair in India we need to give some scope in the copyright act of 1952 to and make right to repair act friendly laws which provide consumers the right to get their devices repaired at the local store or whichever is feasible for them and the warranty also doesn't expire.
- 2. The margin between new devices cost and repairing cost is minimal, hence the consumer is unwantedly forced to opt for new device. For example, Redmi note 8 pro costs rupees 8000 whereas the display repairing cost of the same rages from 3500-4500 INR which is almost half of the price of the new device. Hence, the company service center price for repairing a device should only range between 20% to 30% of the retail price of the new device.
- 3. When a consumer purchases a device, he/she somehow invests in the copyright of such companies, hence it becomes his right to operate and get the device repaired by any of the means, whichever is feasible and it should not amount to infringement of copyright.

CONCLUSION:

The right to repair movement advocates for government legislation requiring manufacturers to provide more help and making it easier for people to fix their own goods.

Manufacturer profit would be hurt by the right to repair legislation as a regulatory constraint, but it's unclear how manufacturers would adjust product prices (and redesign product durability) to offset the (inevitable) profit loss once the bill is enacted, and what the associated welfare and environmental implications are.

Consumer repair rights, according to conventional knowledge, benefit consumers, increase overall societal efficiency (although to the detriment of manufacturers), and lessen environmental impact. These counterintuitive predictions are refuted by our findings. When the unit production cost is cheap (e.g., telephones, microwaves), the right to repair favors customers, but not when the unit production cost is high. This holds true for an intermediate production cost as long as the post-legislation independent repair cost is not excessively low.

Otherwise, consumers suffer, and environmental impact decreases if it is primarily generated during the manufacturing and disposal phases (e.g., high-end computers), but can still increase if the use impact dominates (e.g., cars, tractors, refrigerators), resulting in a lose-lose-lose situation for manufacturers, consumers, and the environment.

Our findings serve as a warning story, urging legislators to consider the inextricable relationship between the repair and product markets when assessing the right to repair. Following that, we'll go over some of our modelling assumptions as well as future research directions. While our environmental impact life-cycle analysis covers the first-order effect, it is not intended to encompass all of the repercussions. One could argue that if customers choose to buy a new phone, they will mess with it more, potentially causing more impact than if they choose to keep their old phone.

Right to Repair is a consumer right which is needed in Indian society for a Sustainable India.