



RIGHT TO REPAIR IS A CHILD OF THE 21ST CENTURY: A CRITICAL STUDY

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ABSTRACT:

The Right to Repair movement aims to empower consumers to repair and modify their products by requiring manufacturers to provide access to repair manuals, diagnostic tools, and replacement parts. In India, the lack of clear regulations around the right to repair has left consumers with limited options for repairing their electronic devices, appliances, and vehicles. This paper provides a comprehensive overview of the Right to Repair movement and the need for legislative action in India to protect the right to repair as a consumer right.

Keywords: Right to Repair, Consumer, Parts and Equipment, E-Wastage, Manufacturers etc.

INTRODUCTION:

The right to Repair is a new right not only for India but for the whole world. These rights will be a new step in the direction of consumer rights, which will give a boost to consumer rights protection. "Right-to-Repair" refers to a right or law intended to allow consumers to repair and modify their consumer electronic equipment, Cars and other things, where otherwise the manufacturer of such equipment would not allow consumers to. A consumer's "right to repair" is referred to as the ability of the consumer to fix or modify their consumer electronic device. This is where they might otherwise be denied service. The customer owns an item once they have purchased it, and if it is damaged, that item must be fixed as soon as possible. It must be possible for the manufacturer to repair and modify the product easily and at a reasonable price.¹

Now the new trend has been adopted by manufacturers they are replacing their models and versions of the item per year or very soon, after launching a new version of the product, parts and maintenance of the old version are tough if the product is defective or not working properly. The consumers are facing such type of issue that the product is not in the market so you can purchase a new version or replace it with a new one. As per this practice, consumers face a huge monetary loss. And it is also against the Right to choose. Several companies have windup their products like Ford has stuck down the production of new cars in India, the question is what about the customers right, if the car is not working properly or have an issue then how these will be fixed and the parts which are required to fix that problem, is available in the market. The same number of mobile companies has stopped production in India.

¹ <https://lexplosion.in/right-to-repair-a-concept-and-the-indian-road-ahead/> visited on 12/03/2023



Now the main issue is why the consumer will bear the monetary loss, it should be the duty of the manufacturer to provide the best services if the manufacturer fails to provide it then he must be assigned these rights to a third party as well as the owner of the product. And the parts of the product should be easily available in the market. Last few years technology companies have raised a new issue they are not interested to repair and fix the problem of the defective product. They offer to purchase a new product in place of the old defective product. It is the main cause of pollution also. E-waste is increasing in the country due to old goods and gadgets. There is about one million tons of e-waste in India every year. This directly pollutes the air, water and soil. So the “Right to Repair” is the need of the day and maximum countries are facing the same issue and trying to resolve it through legislation. Many countries have enacted laws and grant the Right to Repair as a Consumer Right. India also has taken a step in this direction and appointed a committee to prepare a draft regarding the liabilities of manufacturing companies and the Right to repair.²

In recent years, the right-to-repair movement has gained momentum in various countries, including the United States and Europe. However, there has been limited discussion on the right to repair as a consumer right in India. This research paper aims to explore the concept of the right to repair in India and analyze the benefits and challenges of implementing it as a consumer right.³

The Right to Repair movement is gaining momentum across the world as consumers demand greater access to information and tools to repair and modify the products they own. In India, there is a lack of clear regulations around the right to repair, leaving consumers with limited options when it comes to repairing their electronic devices, appliances, and vehicles. This paper argues for the recognition of the right to repair as a consumer right in India and proposes legislative and policy measures that can help protect this right.⁴

The movement of the “Right to Repair” has gained significant momentum in latest years, as consumers demand greater control over the products they own. This movement aims to empower consumers to repair and modify the products they own, by requiring manufacturers to provide access to repair manuals, diagnostic tools, and replacement parts. In India, the lack of clear regulations around the right to repair has left consumers with limited options when it comes to repairing their electronic devices, appliances, and vehicles. This paper argues that there is a need to recognize the right to repair as a consumer right in India, and outlines the benefits of doing so.⁵

The right to repair has become an increasingly important issue around the world, as consumers face limitations on their ability to repair or modify their own devices. In the US and Europe, where lawmakers and activists have fought for laws and regulations that would give customers more control over their devices, the right-to-repair movement seems to have been particularly active. In India, however, the right to repair has received relatively little attention, despite the country's growing consumer electronics market and high levels of e-waste. This research paper seeks to explore the potential benefits of recognizing the right to repair as a consumer right in India.

HISTORICAL BACKGROUND:

It has gained significant momentum over the past few years, as consumers have become increasingly frustrated with the limited options they have for repairing their electronic devices, appliances, and vehicles. In many cases, manufacturers make it difficult or impossible for consumers to repair their products by using proprietary parts and software, restricting access to repair manuals and diagnostic tools, and voiding warranties if repairs are made by anyone other than authorized service providers. This not only limits consumer choice but also leads to unnecessary waste and environmental harm, as consumers are forced to discard products that could otherwise be repaired and reused.

² Aaron Perzanowski, “Consumer Perceptions of the Right to Repair” Vol 96 Issue 2, Indiana Law Journal 361 (2021).

³ Supra note 1

⁴ Supra note-3

⁵ *Ibid*



In India, the lack of clear regulations around the right to repair has left consumers with limited options when it comes to repairing their electronic devices, appliances, and vehicles. While the government has taken steps to address e-waste and promote sustainable practices, there is still a lack of clear guidelines around the right to repair. This paper aims to provide a comprehensive overview of the Right to Repair movement, and the need for legislative action in India to protect the right to repair as a consumer right.

The Right to Repair movement began in the automotive industry, where independent repair shops have long complained about the difficulties they face in accessing the information and tools they need to repair vehicles. This movement has since expanded to other industries, including electronics and appliances. Consumers are increasingly frustrated with the limited options they have for repairing their products, as manufacturers use proprietary parts and software, restrict access to repair manuals and diagnostic tools, and void warranties if repairs are made by anyone other than authorized service providers. This not only limits consumer choice but also leads to unnecessary waste and environmental harm, as consumers are forced to discard products that could otherwise be repaired and reused.⁶

Before the Industrial Revolution, it was common practice to repair one's locally-made farming equipment and/or instruments, and there was no awareness of any special "right" to do so. A distinct gap between the manufacturer and the consumer emerged as a result of the Industrial Revolution's introduction of mass manufacturing, more complex production methods, and durable consumer goods, potentially leading to a problem with repairability. In his autobiography, Henry Ford, the founder of the automotive industry, wrote that he wanted consumers who bought one of his goods to never have to buy another. Another important factor was that "you can take a car that is 10 years old and, with parts that are accessible today, convert it into a car of today with relatively little price." This requirement indicates that the components must be exchangeable (Ford & Crowther, 1922, p. 124). Ford's product design placed a strong emphasis on being repairable (Hanley, Kelloway, & Vaheesan, 2020). Repairability as a consumer right was first contested in court when IBM was sued for antitrust infringement in 1956.⁷ After a trial to determine whether IBM's refusal to permit customers to repair computers they had leased violated the law, the business, which at the time held a dominant position in the mainframe industry, was ordered to give its customers components and subassemblies at fair and non-discriminatory prices.⁸

"PLANNED OBSOLESCENCE" AS AN ALTERNATIVE NOTION:

Ford wasn't exactly a model of excellent economic reasoning when it came to durable goods. Ford agreed that the practice of making newer models more difficult to find replacement components for was "great business" and "wise business" (Ford & Crowther, 1922). To avoid price competition with independent outlets, the Ford Company set up a network of dealers and repair shops starting in the 1920s, only provided repair parts to accredited chain stores, and made repairs extremely difficult instead of using specific tools that were solely available to certified shops (McIntyre, 2000).

Under Alfred Sloan's direction, annual model revisions at GM were planned to intentionally generate psychological obsolescence to encourage people to buy replacements. Sloan's psychological obsolescence is only one of several product development strategies that aim to encourage replacement. Others include functional obsolescence, which involves adding new features to make customers think that older models are outdated, and material obsolescence, which entails shortening the product life (Yamamoto, 2012). Durable consumer items, which were believed to have extended life span due to their repair ability, such as cars and refrigerators, saw an increase in popularity in the 1960s. Economic theory and management science, on the other

⁶ <https://blog.ipleaders.in/right-to-repair/> visited on 14/03/2023

⁷ *United States v. IBM Corp.*, No. 72-344 (S.D.N.Y. 1956). See Table 1, [1].

⁸ Masayuki Hatta, "The Right to Repair, the Right to Tinker, and the Right to Innovate" Vol 19 Issue 4, *Annals of Business Administrative Science* 143 (2020). [The Right to Repair, the Right to Tinker, and the Right to Innovate \(jst.go.jp\)](https://www.jst.go.jp/)



hand, came up with a bold plan in the 1970s to deliberately diminish durability by making repairs more difficult.⁹

Further information about material obsolescence is provided in the sentences that follow: that makes it challenging to fix (by raising the cost of repair, requiring special tools, etc.), and not disclosing information (for instance, not providing manuals). Systemic (the inability to repair newer models with parts from older models or to make parts from one edition obsolete with parts from the other) (the inability to repair newer models with parts from earlier ones or to make parts from one model incompatible with another) Changing model numbers periodically to lessen the psychological appeal of using older models (regularly changing model numbers to reduce the psychological appeal of using older models) legal procedures (prohibiting access and modification to the internal structure of products through copyrights and patents) These approaches are used as part of the marketing strategy known as material obsolescence to persuade clients to upgrade from an old model to a new one.¹⁰ Others contend that planned obsolescence is an important element of industrial policy for technological advancement since it promotes quick innovation through early obsolescence, which is preferable for society to having things that persist for an excessively long time and restrict innovation (Fishman, Gandal, & Shy, 1993).¹¹

The US IT industry was significantly impacted by planned obsolescence, often referred to as material obsolescence, throughout the 1980s and 1990s. Due to the idea that planned obsolescence and legal claims are essential for recovering investments in software that, in theory, does not degrade, this was accomplished. In addition, the United States, which was struggling with the technological rivalry with Japan, witnessed the beginning of a pro-copyright and pro-patent wave in the 1980s, which strengthened the idea of protecting technology by legal means. Significant examples of the American legal system's limitations on the use of anti-monopoly statutes at the period include its failure to identify technology consortiums as cartels (Gibson & Rogers, 1994).

The right to repair as a consumer right has a historical background dating back to the 1960s and 1970s in the United States. During this time, the "throwaway culture" was emerging, where products were designed to be disposable and not easily repairable. This trend was driven by a desire by manufacturers to increase profits by making products that needed to be replaced more frequently.¹²

In response, a movement began to emerge that advocated for the right of consumers to repair their products or to have them repaired by independent repair shops. This movement was driven by several factors, including concerns about environmental waste, consumer rights, and the impact on small businesses.¹³

In the 1980s and 1990s, the advent of digital technology and software led to the emergence of new challenges to the right to repair. Many products, such as smartphones and laptops, were designed to be difficult or impossible for consumers to repair on their own. This led to new advocacy efforts to protect the right to repair and ensure that consumers have access to the tools, parts, and information they need to repair their products.¹⁴

⁹ Supra note 2

¹⁰ Economics has traditionally debated obsolescence in the sense of products deteriorating or becoming unusable, but its primary concern can be seen as obsolescence in the marketing context, i.e., how to stimulate demand for the replacement of goods which are still usable.

¹¹ Masayuki Hatta, "The Right to Repair, the Right to Tinker, and the Right to Innovate" Vol 19 Issue 4, *Annals of Business Administrative Science* 143 (2020). [The Right to Repair, the Right to Tinker, and the Right to Innovate \(jst.go.jp\)](https://www.jst.go.jp)

¹² <https://www.drishtiiias.com/daily-updates/daily-news-analysis/right-to-repair-2> visited on 13/3/2023

¹³ *Ibid*

¹⁴ <https://blog.iplayers.in/right-to-repair/> visited on 14/03/2023



THE COMEBACK OF THE RIGHT TO REPAIR:

In the 2000s, the Right to Repair movement picked up some additional speed. The rising popularity of smartphones and, in particular, the adoption of Apple's policy which, under the DMCA, prohibits disassembling and fixing iPhone products at independent stores and only enables repairs at the company's Genius Bars made this feature viable. The Repair Association, a nonprofit that represents customers and repair firms, launched the Right to Repair initiative in South Dakota, New York, Minnesota, and Massachusetts in 2013. The campaign is currently gaining traction across the entire European Union after seeing success in California in 2019. (Gault & Koebler, 2020).¹⁵

PROVISIONS OF RIGHT TO REPAIR UNDER VARIOUS COUNTRIES:

This is a worldwide movement that aims to ensure that consumers have the right to repair and repair their own devices. If not, manufacturers restrict their customers from using their services exclusively, to prove that they are the most reputable in the business. The user is entitled to access the hardware and software tools that a manufacturer offers to its customers. There is also a choice for the user as to whether they want to fix the device themselves or take it to a manufacturer's service centre, or, they can take it to a third party to fix it for them.

The movement has its roots in the 1950s at the beginning of the computer age¹⁶. Since then, activists and organizations around the world have been demanding the right of consumers to be able to repair their electronics and other products as part of the 'right to repair' movement. The movement seeks to get companies with spare parts, tools, and information on how to repair equipment available to customers. In recent years, countries around the world have been advocating for the passage of effective 'right to repair' laws. Numerous countries have taken measures, implemented policies, and even tried to enact legislation recognizing the right to repair to prevent technological waste. The scope for exercising the right to repair is restricted by a small number of existing legal rules.

POSITION OF RIGHT TO REPAIR UNDER THE UNITED STATES OF AMERICA LEGAL SYSTEM:

The idea originally originated in the USA where the Motor Vehicle Owners' Right to Repair Act 2012 was enacted and Massachusetts became the first state to enact the law. Under this law, manufacturers were required to provide the necessary documentation and information to allow anyone to repair their vehicles. The goal of the movement is to make available information on spare parts, and tools by the companies to repair the equipment available to the customers to increase the life of the products and also to make the repair process for warranty products and replacement cost-effective. The law will cover not only the hardware but also the battery, memory and processing power of the device.

US New York recently passed the Fair Repair Act, which requires manufacturers to provide not only information on their stores or partners but information on repairs, equipment and parts, to independent repair shops¹⁷.

It provides consumers with the right to get their purchased goods repaired and refurbished. With access to relevant tools and repair manuals, independent repair shops would eventually be able to compete with manufacturers.

While this is a victory for consumer rights, privacy, safety and quality concerns as well as open intellectual property (IP) rights violations of manufacturers cannot be sidelined.

Currently, there are no federal laws in the United States that specifically address the right to repair electronic items. However, several states have introduced or passed right-to-repair bills that would

¹⁵ Masayuki HATTA (2020) The Right to Repair, the Right to Tinker, and the Right to Innovate, ADVANCE PUBLICATION, Annals of Business Administrative Science
<https://doi.org/10.7880/abas.0200604a>

¹⁶ <https://www.financialexpress.com/money/why-is-the-right-to-repair-essential-in-india/2623127/>
Visited on 01/03/2023.

¹⁷ <https://dhyeyaias.com/hindi/current-affairs/articles/right-to-repair> visited on 01/03/2023.



require manufacturers to provide consumers and independent repair shops with access to the information and parts needed to repair electronic devices.

For example, in 2021, Massachusetts passed a right-to-repair law that requires car manufacturers to provide access to diagnostic and repair information, as well as the ability to purchase parts, to car owners and independent repair shops. Similarly, in 2020, California passed a right-to-repair law that requires manufacturers to make diagnostic and repair information, as well as parts, available to independent repair shops and consumers.

There have also been efforts to pass right-to-repair legislation at the federal level. In 2021, a bipartisan group of lawmakers introduced the “Fair Repair Act,” which would require manufacturers to make diagnostic and repair information, as well as parts, available to consumers and independent repair shops.

1. The Digital Millennium Copyright Act (DMCA): This law makes it illegal to circumvent digital rights management (DRM) technologies that control access to copyrighted material. This has been a major obstacle for third-party repair shops and individuals trying to repair their own devices, as some manufacturers use DRM to lock down access to diagnostic tools and parts.
2. Magnuson-Moss Warranty Act: This law requires manufacturers to provide customers with clear and detailed information about warranty coverage and any limitations on repair options. It also prohibits manufacturers from voiding warranties solely because a customer used third-party parts or repair services.
3. Environmental Protection Agency (EPA) regulations: The EPA regulates the disposal of electronic waste and requires manufacturers to provide information on how to safely and legally dispose of their products. This can affect the availability of repair parts, as some manufacturers may be reluctant to make certain components available for fear of running afoul of these regulations.
4. State-level right-to-repair laws: As of February 2023, 27 states have introduced right-to-repair bills or regulations, with five of them passing legislation. These laws vary in their specifics but generally require manufacturers to make certain repair information, tools, and parts available to independent repair shops and individuals.

It's worth noting that many of these laws and regulations are complex and subject to interpretation, and there is an ongoing debate over how they should be applied to the right-to-repair issue. Additionally, the lack of a unified federal approach means that the right-to-repair landscape can vary widely depending on where you are in the country.

While there is no uniform federal law governing the right to repair, the Federal Trade Commission (FTC) has issued guidance encouraging manufacturers to provide consumers with the information and tools necessary to repair their devices. The FTC has also warned manufacturers against engaging in anti-competitive practices that could limit the ability of consumers to repair their devices.

The President of the United States has signed an executive order of the Federal Trade Commission to stop restrictions imposed by manufacturers that limit the ability of consumers to repair their gadgets on their terms¹⁸. To date, 32 US states have proposed legislation for the Right to repair act, while Massachusetts is the only state that has passed a law. The law makes it compulsory for vehicle manufacturers to provide consumers with repair guides and independent repair facilities for any car made in 2015 or later¹⁹.

POSITION OF RIGHT TO REPAIR UNDER THE UNITED KINGDOM LEGAL SYSTEM:

The right to repair in the United Kingdom is governed by the Waste Electrical and Electronic Equipment (WEEE) Regulations, which were first introduced in 2007 and have since been updated. These regulations aim to reduce the amount of electronic waste produced in the UK and promote

¹⁸ *Ibid*

¹⁹ <https://www.jagranjosh.com/general-knowledge/right-to-repair-movement-and-how-are-tech-giants-reacting-to-it-1628261259-1> visited on 02/03/2023



sustainable practices by requiring manufacturers to take responsibility for the environmental impact of their products.

Under the WEEE Regulations, manufacturers are required to provide consumers with access to repair information, spare parts, and repair services for a minimum of 10 years after a product is first placed on the market. This includes providing access to software updates, service manuals, and diagnostic tools.

The United Kingdom government passed some regulations related to the Right to Repair on June 18, 2021, and it came into force on July 1, 2021. This law requires manufacturers of certain household appliances, such as washing machines, refrigerators, and televisions, to make spare parts and repair information available to consumers and independent repair shops. The law also sets minimum standards for the durability and reparability of these products.²⁰

The introduction of the Right to Repair law has been praised by advocates of sustainable practices and the circular economy, as it promotes repair and reuses over disposal and replacement. However, some critics argue that the law does not go far enough and that more needs to be done to address the issue of electronic waste in the UK.

POSITION OF RIGHT TO REPAIR UNDER THE EUROPEAN UNION LEGAL SYSTEM:

The European Union has been active in promoting the right to repair in recent years. In 2019, the European Parliament passed a resolution calling for the introduction of a “right to repair” for consumers in the EU. This resolution called for measures to make it easier for consumers to repair and reuse their electronic devices, including the provision of spare parts and repair manuals.²¹

In response, the European Commission introduced a set of regulations in March 2021 as part of the Circular Economy Action Plan, which includes measures to promote the right to repair. These regulations aim to increase the lifespan of products and reduce electronic waste by requiring manufacturers to make their products more repairable and reusable.²²

The regulations include provisions to make spare parts and repair information available to consumers and independent repairers for at least 10 years after a product is placed on the market. They also require manufacturers to design their products in a way that makes them easier to repair and to provide access to software updates.

The regulations apply to a wide range of products, including smartphones, tablets, laptops, and other electronic devices. They will be implemented in a phased approach, with some provisions taking effect in 2021 and others in 2022 and beyond.

The introduction of these regulations has been welcomed by consumer groups and environmental organizations, as they are seen as an important step towards promoting sustainable practices and reducing electronic waste in the EU.

POSITION OF RIGHT TO REPAIR UNDER THE FRANCE LEGAL SYSTEM:

Manufacturers in France are required to display a reparability index on their products which consist of five parameters. This helps consumers to understand whether the products are repairable, difficult to repair or not repairable at all. The period for which product liability is applicable may vary depending on the product and its longevity.

In France, the right to repair is governed by the “Loi Anti-Gaspillage Pour Une Economie Circulaire” (anti-waste law for a circular economy), which was passed in 2020. This law includes several measures to promote the right to repair, reduce waste and encourage sustainable practices.²³

Under the anti-waste law, manufacturers are required to provide consumers with access to repair information, spare parts and repair services for at least 10 years after the product is placed on the

²⁰ [The Ecodesign for Energy-Related Products and Energy Information Regulations 2021 \(legislation.gov.uk\)](https://legislation.gov.uk) visited on 16/03/2023

²¹ [Right to repair \(Europa.eu\)](https://europa.eu) visited on 17/03/2023

²² *ibid*

²³ [Major steps for durability and Right to Repair taken in France - Right to Repair Europe](https://www.ec.europa.eu/commission/press-materials/press-conferences-events/2023/03/15-major-steps-for-durability-and-right-to-repair-taken-in-france-right-to-repair-europe_en) visited on 15/03/2023



market. This includes making technical information and repair manuals available to independent repairers and consumers.²⁴

The law also includes provisions to promote the repairability and durability of products. Manufacturers must now indicate the repairability index of their products on a scale from 1 to 10, with 10 being the easiest to repair. This index must be displayed on the product itself and the manufacturer's website.

In addition, the law encourages the use of refurbished products and introduces a "bonus-malus" system for electronic devices, where manufacturers will be rewarded for producing repairable products and penalized for producing products that are difficult to repair.

Overall, the anti-waste law in France represents a significant step towards promoting the right to repair and reduce waste. It is seen as a model for other countries to follow in their efforts to promote sustainable practices and reduce electronic waste.

POSITION OF RIGHT TO REPAIR UNDER THE AUSTRALIAN LEGAL SYSTEM:

The "Right to Repair" is acknowledged there in the context of motor vehicles, which is compatible with US policy, even though there is no specific statute to enforce it. In the landmark case of *Calidad v. Seiko*,²⁵ the High Court of Australia clearly stated what constituted repair of a patented property (2020). In this case, single-use cartridges were altered to allow for a variety of uses. Calidad brought these multi-use cartridges into Australia when the problem first appeared. According to the Court, two legal principles that relate to patent law are the concept of exhaustion and the theory of implied licence. While the implied licence doctrine assumes that each product being sold is under licence and that any restrictions the manufacturer places on the product will apply regardless of how many times it is sold, the doctrine of exhaustion states that the patentee's right to the product is exhausted on the first sale. The Court, however, concluded that the law of exhaustion would apply in this instance. The Court further declared that while a consumer has the right to repair regardless of the intellectual property rights that a producer may retain over a product, he cannot change the actual product.²⁶

PROVISIONS OF RIGHT TO REPAIR IN INDIA:

In India, there is no specific legislation related to the right to repair. However, there are several laws and regulations related to e-waste management and consumer protection that provide some protection for consumers. The E-Waste (Management) Rules, 2016, require manufacturers to provide information on repair and refurbishment and to ensure that spare parts are available for a minimum of seven years. The Consumer Protection Act, of 2019, also includes provisions related to product warranties and guarantees and provides for consumer rights concerning defective products.

LEGISLATIVE FRAMEWORK ON THE RIGHT TO REPAIR AS A CONSUMER RIGHT:

The right to repair as a consumer right is gaining increasing attention and recognition globally and several countries have enacted legal frameworks to protect this right. In India, the legal framework for the right to repair is still evolving, and there is no specific legislation or regulation that directly addresses this issue. However, there are some laws and regulations that touch upon related issues, such as consumer protection and competition law.

- Consumer Protection Act, 2019: This Act provides for the protection of consumers' rights, including the right to be informed, the right to choose, the right to be heard, the right to seek redressal and the right to consumer education. While the Act does not specifically mention the right to repair, it does provide for the protection of consumers' interests

²⁴ *ibid*

²⁵ (2020) HCA 41.

²⁶ <https://lexplosion.in/right-to-repair-a-concept-and-the-indian-road-ahead/> (visited on 20/03/2023)



concerning goods and services and mandates that businesses must provide goods and services that are of satisfactory quality, fit for purpose, and meet the standards specified.

- **Competition Act, 2002:** This Act prohibits anti-competitive agreements and abuse of dominant market positions by businesses. The Act also provides for the establishment of the Competition Commission of India (CCI), which has the power to investigate and penalize anti-competitive practices. While the Act does not specifically mention the right to repair, it does provide for the protection of competition in markets, which may help to prevent manufacturers from unfairly restricting consumers' choices concerning repairs.
- **Motor Vehicle Aggregator Guidelines, 2020:** These guidelines were issued by the Ministry of Road Transport and Highways to regulate ride-hailing services such as Uber and Ola. The guidelines mandate that ride-hailing companies must ensure that their partner drivers' vehicles are maintained and repaired following the manufacturer's specifications, but do not impose any restrictions on where the repairs must be carried out.

In addition to these laws and regulations, there are also ongoing discussions and advocacy efforts by consumer groups and other stakeholders to push for stronger legal protections for the right to repair in India.

JUDICIAL APPROACH ON RIGHT TO REPAIR:

The right to repair as a consumer right is a relatively new concept in India and there have not been many cases specifically addressing this issue. However, there have been some cases that touch upon related issues. Here are a few examples:

- ***Tata Motors Limited v. Hitesh Bhatt*** (2015): In this case, the National Consumer Disputes Redressal Commission (NCDRC) held that a manufacturer cannot force a consumer to use only its authorized service centres for repairs. The NCDRC noted that consumers have the right to choose where they want to get their vehicles repaired, as long as the repair work is done by competent professionals using genuine parts.
- ***Sanjeev Nirwani v HCL***²⁷ An OEM is required to supply spare parts and consumables like batteries for the operation of the laptops, according to the District Consumer Disputes Redressal Forum (East), NCT OF Delhi, who noted that "services" include paid post-warranty period services. According to the forum's conclusion, actions like these must be categorized as "unfair trade practices" under the Consumer Protection Act since they limit or obstruct a customer's right to repair.
- ***Kirti Singh v. Oriental Insurance Company Limited***:²⁸ In this case, the Delhi State Consumer Disputes Redressal Commission held that an insurance company cannot refuse to cover repair costs simply because the repairs were not done at an authorized service centre. The Commission noted that consumers have the right to choose where they want to get their vehicles repaired and that insurance companies cannot impose arbitrary conditions on this right.
- ***Saurabh Sharma v. Honda Siel Cars India Ltd.*** (2018): In this case, the NCDRC held that a manufacturer cannot refuse to provide warranty coverage simply because the consumer got their vehicle repaired at a non-authorized service centre. The NCDRC noted that consumers have the right to choose where they want to get their vehicles repaired and that manufacturers cannot impose arbitrary conditions on this right.
- ***Shamsher Kataria v. Honda Siel Cars India Ltd***²⁹. In this case, the Commission took into account the idea of vertical agreements, which encompassed exclusive supply and distribution agreements as well as refusals to trade. The Commission further determined that such a

²⁷ CC/618/2014, decided on March 18, 2015.

²⁸ (2021) 2 SCC 166

²⁹ 2014 SCC OnLine CCI 95.

<https://www.sconline.com/blog/post/2019/06/14/forward-vertical-integration-by-contract-in-the-light-of-shamsher-kataria-case/>



distribution structure permitted OEMs to demand outrageous prices from their captive customers, increase revenue margins from the sale of auto parts in comparison to the sale of automobiles themselves, and possibly have long-term anti-competitive structural effects on the Indian automobile market. The network of these agreements allowed OEMs to turn into monopolistic participants in the aftermarket for their model of cars, erect entry barriers, and bar competition from independent service providers, according to the Commission, which determined that the contested agreements violated Section 3 of the Act. A monopoly on repair techniques also violates the customer's "right to choose," according to the Consumer Protection Act of 2019.

As a result, the right to repair is only partially recognized by this Act and the Competition Commission of India's ruling in the aforementioned case.

These cases suggest that the right to repair is emerging as a consumer right in India and that consumers have the right to choose where they want to get their products repaired as long as the repair work is done by competent professionals using genuine parts. However, there is still a need for more comprehensive legal and regulatory frameworks to protect this right and ensure that manufacturers and service providers do not unfairly restrict consumers' choices.

BENEFITS OF THE RIGHT TO REPAIR AS A CONSUMER RIGHT IN INDIA:

The right to repair as a consumer right can bring several benefits to consumers and society as a whole in India. Here are some potential benefits:

1. **Cost savings:** The right to repair can save consumers money by allowing them to repair their products instead of having to replace them. This can be particularly important for low-income households that may not have the financial resources to replace products frequently.
2. **Environmental benefits:** The right to repair can help to reduce environmental waste by extending the life of products and reducing the need for disposal. This can help to reduce the environmental impact of manufacturing and reduce the amount of electronic waste that ends up in landfills.
3. **Increased consumer choice:** The right to repair can increase consumer choice by allowing consumers to choose where and how to repair their products. This can create more competition in the repair market and provide consumers with more options for repairs, including independent repair shops.
4. **Job creation:** The right to repair can create jobs in the repair and recycling industries, including for independent repair shops and recyclers. This can be particularly important for rural areas and small towns that may have limited employment opportunities.
5. **Improved product quality:** The right to repair can incentivize manufacturers to design products that are more durable, repairable, and upgradable. This can lead to improved product quality and longer product lifetimes, which can benefit both consumers and the environment.
6. **Empowers Consumers:** Recognizing the right to repair empowers consumers to take control of their products, and to repair and modify them as they see fit. This not only gives consumers greater choice and control over their products but also promotes a culture of repair and reuse, which is critical for reducing waste and promoting sustainability.
7. **Supports Small Businesses:** Recognizing the right to repair also supports small businesses, such as independent repair shops, by giving them access to the information and tools they need to repair products. This not only promotes competition and innovation in the repair industry but also supports local economies by creating jobs and supporting small businesses.
8. **Promotes Innovation:** Recognizing the right to repair also promotes innovation by encouraging manufacturers to design products that are more repairable and durable. This can lead to the development of new technologies and products that are more sustainable and cost-effective.



9. **Reduces E-Waste & Waste:** Recognizing the right to repair also helps to reduce e-waste & waste by promoting repair and reuse, and by reducing the number of products that are discarded prematurely due to lack of access to repair information and spare parts as well as electronic products.
10. **Improved access to repair services:** The right to repair can promote the growth of third-party repair services, creating new business opportunities and improving access to repair services for consumers in remote or underserved areas.

CHALLENGES OF THE RIGHT TO REPAIR AS A CONSUMER RIGHT IN INDIA:

1. **Lack of awareness:** The right to repair is a relatively new concept in India, and many consumers may not be aware of their rights or the benefits of repairing their products.
2. **Limited availability of repair services:** In many cases, manufacturers may not provide repair services or may make it difficult for third-party repair services to access repair manuals or spare parts, limiting the ability of consumers to repair their products.
3. **Quality and safety concerns:** Repairing a product may impact its safety or performance, and consumers may not have the necessary skills or knowledge to perform repairs safely.
4. **Regulatory challenges:** The implementation of the right to repair may require new laws or regulations, and there may be challenges in enforcing these laws.

Despite these existing laws and regulations, there are several challenges to the right to repair in India. One of the main challenges is the lack of access to spare parts and diagnostic tools. Many manufacturers use proprietary parts and software, making it difficult for consumers and independent repair shops to access the parts and tools they need to repair products. This not only limits consumer choice but also makes it difficult to repair products cost-effectively and sustainably.

Another challenge is the lack of awareness among consumers about their right to repair. Many consumers are not aware that they have the right to repair their products, or that they can take action if manufacturers refuse to provide access to repair information or spare parts. This lack of awareness can lead to consumers discarding products that could otherwise be repaired, contributing to unnecessary waste and environmental harm.

SUGGESTIONS:

To address these challenges, there is a need for legislative action to protect the right to repair as a consumer right in India. This could include the following:

1. Enacting specific legislation related to the right to repair, requiring manufacturers to provide access to repair manuals, diagnostic tools, and replacement parts to consumers and independent repair shops.
2. Increasing consumer awareness about the right to repair through public education campaigns and
3. Encouraging the development of a robust repair and refurbishment industry in India, this would create jobs and contribute to the circular economy.
4. Promoting the use of open-source software and standardized parts to increase accessibility and affordability of repairs.
5. Recognition of the Right to Repair: The government should recognize the right to repair as a consumer right in India, and ensure that manufacturers provide access to repair manuals, diagnostic tools, and replacement parts to consumers and independent repair shops.
6. Legislation and Regulation: The government should enact specific legislation related to the right to repair, and ensure that existing laws and regulations related to e-waste management and consumer protection are effectively enforced. This could include requiring manufacturers to provide information on repair and refurbishment, and to ensure that spare parts are available for a minimum of seven years.
7. Consumer Education and Awareness: The government should launch public education campaigns to increase consumer awareness about the right to repair, and the actions that



consumers can take if manufacturers refuse to provide access to repair information or spare parts. This could include setting up a dedicated helpline or website where consumers can report issues and seek assistance.

8. Industry Collaboration: The government should work with manufacturers, independent repair shops, and consumer advocacy groups to develop industry standards and best practices that support the right to repair. This could include developing certification programs for independent repair shops and promoting the use of open-source software and standardized parts.
9. Enacting specific legislation related to the right to repair, requiring manufacturers to provide access to repair manuals, diagnostic tools, and replacement parts to consumers and independent repair shops.
10. Encouraging manufacturers to design products that are more repairable and durable, and to use standardized parts and software to make repairs easier and more accessible.
11. Supporting small businesses, such as independent repair shops, by providing training, resources, and financial incentives to promote innovation and competition in the repair industry.

CONCLUSION:

The right to repair is an important consumer right that promotes consumer choice, reduces waste and environmental harm, and supports a thriving independent repair industry. In India, there is a need for legislative action to recognize the right to repair as a consumer right and to address the challenges faced by consumers and independent repair shops. By enacting specific legislation, increasing consumer awareness, and promoting the development of an independent repair industry, India can take important steps towards recognizing the right to repair as a fundamental consumer right.

The Right to Repair movement is gaining momentum around the world, as consumers demand the ability to repair and modify the products they own. In India, there is a need for legislative action to recognize the right to repair as a consumer right, and to ensure that consumers have access to the information, tools, and parts they need to repair their products. This would not only empower consumers and increase choice but also contribute to a more sustainable and circular economy.

The Right to Repair movement is an important consumer rights issue that has gained significant momentum in recent years. In India, there is a need for legislative action to recognize and protect the right to repair as a consumer right, to ensure that consumers have access to the tools and information they need to repair their products cost-effectively and sustainably. By enacting specific legislation, increasing consumer awareness, encouraging manufacturers to design products with repair ability in mind, and supporting the growth of the independent repair industry, India can become a leader in promoting the Right to Repair.

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