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COPYRIGHT IN THE MEME CULTURE: FROM LOLS TO LAWSUITS

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INTRODUCTION

In a world where humor travels faster than light, memes have become the digital generation's language of expression. From political satire to viral jokes about celebrities and TV shows, memes have become a cultural force. But as creators remix and repurpose images, video clips, and quotes, a serious legal question lingers, Can Memes Break Copyright Laws?

As per Merriam Webster's dictionary memes are referred to as “an amusing or interesting item (such as captioned picture or video) or genre of items that is spread widely online especially through social media” or “an idea, behaviour, style or usage that spreads from person to person within a culture.”¹

Under the Indian Copyright Act, 1957, original works like literary, artistic, musical, and film content are protected. Using such material in memes without permission may lead to copyright infringement. However, Section 52 allows limited use under 'fair dealing' for purposes like criticism or review, depending on factors like purpose, amount used, and impact on the original work's value.

WHEN ARE MEMES NOT SAFE TO USE?

- 1) **COMMERCIAL PURPOSE-** If you use memes in things like advertisements, sponsored posts, T-shirts or merchandise or business promotions then you are using someone else's content to make money. That's not allowed unless you get permission from the original

¹ “Meme,” *Merriam-Webster.com Dictionary*, Merriam-Webster, last updated July 12, 2025, <https://www.merriam-webster.com/dictionary/meme> (accessed July 31, 2025)

creator. This is especially risky if the meme includes famous movie scenes, music, or celebrity images. **Example:** Using a meme with a Marvel character to sell your product could get you a copyright notice or worse, a lawsuit.

- 2) WHEN YOU COPY TOO MUCH OF THE ORIGINAL WORK** - If your meme is just a screenshot, clip, or quote copied straight from a movie, show, or someone else's artwork, without changing it much, it's likely to break copyright rules.

The law expects you to be creative, to transform the content, not just reuse it.

Example: Posting a full movie scene with just one line of text on it probably isn't enough of a change. But cutting it down, remixing it, or adding a strong commentary might be okay.

- 3) USING MUSIC OR CLIPS WITHOUT PERMISSION:** When you make video memes or reels using popular songs or clips: Social media platforms like Instagram and YouTube may have licenses that allow some limited use so you're usually safe on those platforms. But if you download and repost the same video elsewhere (like on a website or in a paid ad), that license doesn't follow you and it could become illegal.

Example: Making a meme with a Bollywood song and posting it on Instagram is likely fine. But using the same song in a paid promo on your own website could get you in trouble.

MAJOR GREY AREAS

- 1) PARODY PROTECTION AMBIGUITY-** The Indian Copyright Act creates a major legal grey area for meme creators because parody is not explicitly protected. Section 52(1)(a) allows "fair dealing with any work, not being a computer programme, for the purposes of (i) private or personal use, including research; (ii) criticism or review, whether of that work or of any other work"²but parody is notably absent from this list. Courts have attempted to protect parodies by classifying them under "criticism or review," but this creates uncertainty since not all memes qualify as criticism. Parodies are neither explicitly allowed nor disallowed under the Copyright Act, and hence the consideration of the legality of each parody would be subject to scrutiny and depend on the facts and circumstances of each

² Anushka Satwani, *Meme Laws: Can You Get In Trouble for That Hilarious Post?*, Legal Bites (June 29, 2024).

case.³This forces judges to decide each meme dispute individually without clear legislative guidance, making the legality of any parodic content unpredictable. Unlike the US with its broader "fair use" doctrine or the UK which specifically recognizes parody, Indian meme creators cannot rely on explicit statutory protection, leaving them in a legal limbo where their creative expression may or may not be protected depending on judicial interpretation.

- 2) **PERSONALITY RIGHTS AND PRIVACY INTERSECTION**-Indian law's fragmented approach to personality rights creates significant uncertainty in meme culture, as there is no comprehensive legislation governing the use of individual likenesses in digital content. The court's decision in *Amitabh Bachchan v. Rajat Nagi and Ors.* holds significant legal implications. It underscores the evolving landscape of personality rights protection in India, particularly highlighting a celebrity's right to govern the commercial use of their persona.⁴ While courts have recognized that personality rights are vested in persons who have attained celebrity status⁵ and recent cases like *Court* passed the ex-parte interim order against several websites and platforms on a lawsuit by the actor, alleging unauthorised exploitation of his personality and celebrity rights for commercial use⁶ in the *Anil Kapoor* case demonstrate increasing judicial protection for celebrities, this creates an unequal legal framework. Ordinary individuals whose images become viral meme templates have limited recourse despite Publicity rights was first recognised as a type of privacy right by the Supreme Court in *RR RajaGopal v State of Tamil Nadu* , as practical enforcement remains weak for non-celebrities. The grey area deepens with the blurred line between commercial and non-commercial use on monetized social media platforms, where making a video on YouTube containing images of an actor will not necessarily constitute infringement; however, if the video is derogatory or tarnishes the reputation of a celebrity, then it might

³ SS Rana & Co, *Memes and Copyright Protection*, Lexology (Dec. 10, 2021), <https://www.lexology.com/library/detail.aspx?g=c4f84fc0-41d7-4191-bdf1-ff13781cd4c6> (last visited July 30, 2025).

⁴ Tejaswi D. Shetty, *Copyright Provisions Pertaining to 'Internet Memes' in India*, NLIU Cell for Studies in Intellectual Property Rights (May 27, 2022), <https://csipr.nliu.ac.in/copyright/copyright-provisions-pertaining-to-internet-memes-in-india/> (last visited July 31, 2025).

⁵ *Is Making Memes Illegal in India?*, India Law Offices, Apr. 3, 2023, <https://www.indialawoffices.com/legal-articles/is-making-memes-illegal-in-india> (last visited July 31, 2025).

⁶ Sneha Mahawar, *Fair Use Under Copyright Law*, iPleaders (Dec. 19, 2023), <https://blog.iplayers.in/fair-use-under-copyright-law/> (last visited July 31, 2025).

constitute infringement. This creates a constitutional tension between personality rights protected under Article 21 (privacy) and meme creators' freedom of expression under Article 19(1)(a), forcing courts to make case-by-case determinations without clear legislative guidance, resulting in unpredictable legal outcomes for all parties involved.

- 3) **CONSTITUTIONAL V COPYRIGHT TENSIONS-** The clash between freedom of expression under Article 19(1)(a) and copyright protection remains one of the most unsettled areas in Indian law, particularly in the context of memes. In *Wiley Eastern Ltd. v. Indian Institute of Management*, the Delhi High Court held that Section 52 of the Copyright Act, 1957 is intended to safeguard free expression by recognizing fair dealing exceptions. However, this creates a paradox where copyright simultaneously restricts and protects expression, leaving courts to balance competing interests. Memes, as digital expressions, fall within free speech but risk infringing creators' exclusive rights. The doctrine of fair dealing is highly discretionary, with no clear threshold distinguishing bona fide transformative use from infringement. In *India TV v. Yashraj Films*⁷, the court permitted the use of small excerpts for criticism or reporting, but the precedent primarily addresses traditional media rather than meme culture. The absence of clear judicial precedent makes outcomes unpredictable, leaving meme creators uncertain whether their work is constitutionally protected or infringing. While copyright law aims to advance public knowledge, Indian courts have yet to establish a framework that reconciles transformative meme expression with the rights of copyright holders, keeping the constitutional-copyright tension unresolved.

ENFORCEMENT AND PRACTICAL CHALLENGES

The enforcement of copyright law in meme culture presents numerous practical difficulties that create significant grey areas in Indian jurisprudence. In a plethora of cases, the Indian courts have held that the right to criticize or imitate a person through memes is not exclusive and is limited to the point where the rights of the other person are not affected. This judicial stance establishes that meme creation does not provide blanket immunity from legal consequences, forcing creators to navigate complex liability issues without clear guidelines.

⁷ *Indiatv Independent News Serv. Pvt. Ltd. v. Yashraj Films Pvt. Ltd.*, 2012 (50) PTC 438 (Del).

The challenge of identifying original creators compounds enforcement difficulties, as memes often spread virally across platforms with attribution lost in the process. The meme creator merely does not repost the photo but instead overlays text on it or changes it in some manner, changing the artwork's original nature into something new and therefore constitutes fair use. It should also be noted that mere reposting of a meme on social media platforms would get the benefit of fair use. However, when disputes arise, determining who created what element becomes nearly impossible in the viral ecosystem of social media sharing.

CONCLUSION

Cross-border enforcement issues further complicate matters, as memes created in one jurisdiction may violate copyright or personality rights in another, with Indian courts lacking effective mechanisms to pursue remedies against foreign-based infringers or platforms. The platform liability versus user liability distinction creates another layer of complexity, where Social media sites such as infringing on copyright. According to Indian law, such sites are liable for hosting unlawful content unless they come under the purview of Section 79 of the Information Technology Act, 2000 which provides safe harbor protection. Section 79 of the IT Act provides a safe harbour to intermediaries from liability for third-party content, provided they act as neutral hosts.

This creates a practical enforcement gap where copyright holders must pursue individual users rather than platforms, making enforcement economically unfeasible for most cases. The intersection of these challenges means that while courts have established that Adequate permissions and consent from copyright owners must be taken before making or using any meme for commercial or promotional purposes, the practical reality of enforcement remains largely theoretical, creating a legal framework that exists more in principle than in effective practice for the vast majority of meme-related copyright disputes.

Meme culture sits at the crossroads of copyright and free speech, often causing legal confusion. AI-generated memes aren't protected under copyright law due to lack of human authorship. India's existing laws are weak and outdated in addressing this space. As digital expression grows, clear and updated rules are needed to balance creativity, ownership rights, and fair use.