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“STRENGTHENING COPYRIGHT LAW THROUGH EFFECTIVE MANAGEMENT”

Shelza Manghnani

ABSTRACT

This article contends that India’s copyright regime can be significantly strengthened by implementing effective rights management systems and ensuring due credit to original creators, thereby fostering a culture of creativity, accountability, and sustained innovation. Further, the discussion centres on the current state of copyright law in India and the necessity for its evolution in light of contemporary challenges. It is duly acknowledged that copyright confers substantial proprietary rights upon creators over their works, often recognised under the doctrines of the right of paternity and the right of integrity. Finally, the article emphasizes the importance of maintaining a balance between the principle of fair use and those domains that warrant complete restriction from unauthorised use or further development.

INTRODUCTION

The fundamental reason behind artists’ insecurity regarding their work stems from the rapid dissemination of information in the digital age. While this accelerated spread can be advantageous—enabling broader reach and greater visibility for their creations—it simultaneously poses a significant risk. The ease with which content can be replicated or misappropriated undermines the originality of the artist's work, potentially stripping them of due credit and diminishing their legal and moral claim to authorship. Undoubtedly, this fear has intensified in recent times, but such incidents are not a new phenomenon, as in the case of

Gopaldas v. Jagannadha Prasad¹, concerning two works on Koka Shastra, the Allahabad High Court concluded that the defendant had infringed the plaintiff's copyright by replicating substantial portions of the plaintiff's book. The Court observed that the act of replicating such significant content amounted to infringement, even though the defendant had inserted additional material of his own. The inclusion of new content did not negate the fact that the core of the defendant's work involved replicating major parts of the plaintiff's original creation, thereby violating his copyright.²

This is the point at which the role of effective management becomes crucial. A well-structured system must be in place to ensure that creators can continue their work without the persistent fear of misappropriation or infringement. For instance, consider the academic setting where students submit essays on assigned topics. It becomes the responsibility of the educational institution and its faculty to recognize and safeguard the originality of each student's work. While it is possible that multiple students may interpret a topic similarly, the expression of their ideas—being the product of individual intellectual effort—will invariably differ. Thus, upon submission, each student acquires a distinct right over their work, which, in legal terms, constitutes copyright. With this the main question being dealt with in this article can be observed from the lens of both law and management, highlighting the significant contribution of an effective management backing the wheels of the creative process, one which can truly be expanded only through supportive systems in place.

DUE CREDIT ENCOURAGES CREATIVITY

By due credit one can surely picture the copyright being duly attached, It is often contended that the primary aim of copyright law is to foster creativity, while this objective may not be explicitly stated in the statutory purposes of copyright laws in the U.S. and the U.K., a careful interpretation of both legal frameworks suggests that promoting creativity is indeed a central underlying intent.³ In general, the same can be expected from the legislation related to copyright in India as well, which is discussed in detail in the article ahead. Creativity lies at the heart of copyright law, which fundamentally serves to foster and incentivize creative expression.

¹ Gopal Das v. Jagannath Prasad, 1938 SCC OnLine All 287 (Ind.)

² SOLI J SORABJEE & ARVIND P DATAR, *NANI PALKHIVALA: THE COURTROOM GENIUS* 341 (Lexis Nexis 2012).

³ Deborah R. Gerhardt, Copyright Publication on the Internet, 60 IDEA 1 (2020).

Contemporary copyright regimes operate on the principle that enhanced legal protection for original works leads to a corresponding increase in creative output. This foundational idea, rooted in economic reasoning, has significantly shaped and expanded the scope of copyright beyond its early incarnation in the Statute of Anne. Every copyrighted work contains an element of originality, and by granting legal safeguards to creators, the state not only motivates individual authors but also encourages society at large to engage in creative endeavors. However, evolving social contexts—including advancements in digital technologies, new modes of knowledge production, and the broadening access to creative tools—have introduced complex challenges to the existing legal framework. The logic follows that stronger protection yields greater rewards, which in turn enhances the incentive to create, ultimately resulting in a richer body of creative works. As Macaulay observed, increasing the economic return for authors translates into a broader public benefit through the proliferation of new works. Thus, copyright law plays a critical role in cultivating creativity.⁴

Copyright empowers individuals of all ages to tackle global challenges and nurture a vibrant culture by directing their creativity, innovation, and passion toward meaningful change. A strong intellectual property framework offers the means to invest in one's skills and bring ideas to life. Moreover, a legal and policy system that prioritizes intellectual property can help safeguard your work, ensuring it remains accessible and adaptable for shaping a better tomorrow.⁵

PRESENT POSITION OF THE COPYRIGHT LAW IN INDIA

Copyright is a distinct type of intellectual property right granted to an individual over their original creation, such as a literary, musical, or artistic work. It provides legal recognition to the fruits of a person's skill, labour, and creativity, protecting them from being used or reproduced without permission.⁶ The evolution of copyright law in India is closely tied to English law. The Copyright Act, 1957⁷, currently in force, drew inspiration from the UK's copyright law but

⁴ Tabrez Ahmad & Ankur Mishra, *Creativity and Copyright: U.S. and Indian Perspective* (2011), <https://ssrn.com/abstract=1909168> (last visited July 16, 2025).

⁵ *Five Ways Copyright Laws Encourage Personal Expression and Creativity*, U.S. CHAMBER OF COMMERCE, <https://www.uschamber.com/intellectual-property/five-ways-copyright-laws-encourage-personal-expression-and-creativity> (last visited July 16, 2025).

⁶ DR. B.L. WADEHRA, *LAW RELATING TO INTELLECTUAL PROPERTY* 269 (5th ed. 2011).

⁷ Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (Ind.)

incorporated modifications for the Indian context. Significant amendments occurred in 1983, 1984, and 1994, especially to combat the rise of piracy in video and audio formats.

Dr. Wadehra explains that copyright protection is grounded in the principle of fairness and justice. When a person produces something through their intellect and labour, they have a legitimate expectation that others should not profit from it unfairly. The law provides creators with exclusive rights to prevent others from exploiting their work without consent. The Copyright Act, 1957 aims to protect both the personal and economic interests of authors while balancing this with the public's right to access knowledge. He also outlines the following core features:

- **Statutory Basis:** Copyright is created and governed by statute. There is no recognition of copyright under common law in India—its legitimacy is purely legislative (Section 16 of the Copyright Act, 1957).
- **Intellectual Property Form:** It is a kind of intellectual property, stemming from a person's creative or intellectual efforts.
- **Monopoly Nature:** It grants exclusive rights to the creator, restricting others from exploiting the work without authorization.
- **Negative Right:** Rather than conferring an active right to use the work, it empowers the creator to stop others from unauthorized use.
- **Multiple Rights:** Copyright encompasses a bundle of rights, such as reproduction, distribution, adaptation, performance, and broadcasting. These rights can be independently exercised or licensed.
- **Copyright law strictly protects the Expression of an idea, not the Idea itself:** If someone independently expresses a similar idea in a different manner, it does not constitute infringement. This is because copyright does not grant a monopoly over ideas or facts—only the original form in which they are conveyed. Therefore, while two authors can have the same theme or concept, infringement only arises if the specific expression is copied. A similar observation was made in the case of *Rg anand*⁸, where the court's decision differentiated between an idea and its protectable expression.⁹

⁸ R.G. Anand v. Delux Films, (1978) 4 SCC 118 (Ind.)

⁹ WADEHRA, supra note 7 at 270.

HOW DOES COPYRIGHT EMBODY THE RIGHT OF PATERNITY AND THE RIGHT OF INTEGRITY?

It is Section 57 of the act¹⁰ that gives statutory recognition to the two basic moral rights. Although the act does not explicitly label them as “moral rights,” it recognizes them under the term Special Rights of the Author.

1. RIGHT TO PATERNITY (RIGHT TO ATTRIBUTION OR IDENTIFICATION)

As per Section 57(1) (a) of the Indian Copyright Act, the author has the right to be identified as the creator of the work. This includes the authority to decide whether their name should appear in association with the work, such as during marketing or publication. This right prevents misattribution, ensuring that no other individual is wrongly credited as the author. It also enables the actual creator to stop others from falsely crediting them for works they did not create. This protection is crucial for preventing plagiarism and for ensuring that the rightful author receives due acknowledgment.¹¹ For instance, if a movie is adapted from a novel but does not give proper credit to the novelist, the author can take legal action to claim recognition. A real-life example is the case of the film *3 Idiots*, which was based on Chetan Bhagat’s novel *Five Point Someone*¹². The controversy arose because Bhagat's name appeared in the end credits in smaller font rather than in the opening credits, leading him to claim that his moral right was infringed. The right to paternity is essential in the digital era, where information is rapidly circulated worldwide. It helps ensure that audiences know the true creator behind a work and protects the creator’s identity and authenticity. In summary, this right includes:

- The right to claim authorship.
- The right to prevent false attribution.
- The right to object to being credited for works not authored by them.

2. RIGHT TO INTEGRITY

¹⁰ Supra note 8, at 57.

¹¹ K.R. Yadav, *Moral Rights and Indian Copyright Law*, 2 Int’l J. Res. Eng. Sci. & Mgmt. 207 (2019), https://ijresm.com/Vol.2_2019/Vol2_Iss7_July19/IJRESM_V2_I7_56.pdf (last visited July 16, 2025).

¹² CHETAN BHAGAT, *FIVE POINT SOMEONE* (Rupa & Co. 2004).

According to Section 57(1) (b), the author has the right to prevent or claim damages for any distortion, mutilation, or modification of their work that harms their honour or reputation, even during the copyright period. The purpose of this right is to uphold the creator's dignity and reputation attached to the work. This right remains with the author even if the copyright is transferred to another party. The new owner cannot arbitrarily modify the work in a way that harms the original creator's reputation. However, this protection does not extend to computer programs, computer-generated works, works made for news reporting, or works published in newspapers, magazines, or periodicals where the use was with the author's consent or created for that specific purpose. Importantly, for an author to invoke this right, it must be shown that the alteration is harmful to their reputation. It applies across literary, dramatic, musical, artistic, and cinematographic works, and does not permit the defense that the change was an "improvement" of the original. In short, the right to integrity is the right to object to derogatory, offensive, or harmful treatment of one's work that damages the author's honour or standing.

In the landmark case of Mannu Bhandari vs. Kala Vikas Picture¹³, renowned author Mannu Bhandari granted Kala Vikas Pictures the rights to adapt her novel "Aap Ka Bunty" into a film. The agreement between the parties explicitly allowed the film's director and screenwriter to make alterations as necessary for the successful production of the movie. However, after viewing the adapted version, Mannu Bhandari raised serious concerns regarding the title, character depiction, script changes, and particularly the ending of the film. She alleged that these alterations significantly deviated from the original spirit of her novel and amounted to a violation of her moral rights under Section 57 of the Copyright Act, 1957. Consequently, she filed a legal complaint against Kala Vikas Pictures, asserting that her creative and reputational interests had been compromised. Key Observations of the Delhi High Court:

- Moral rights are inalienable: The Court clarified that moral rights, as protected under Section 57, cannot be waived or transferred, even through a contract. Any assignment of copyright remains subject to these rights.¹⁴
- Interpretation of "modification" under Section 57: The Court applied the principle of *eiusdem generis* to interpret the word "modification" in line with "distortion" and

¹³ Mannu Bhandari v. Kala Vikas Pictures (P) Ltd., 1986 SCC OnLine Del 238 (Ind.)

¹⁴ *supra* note 12, at 209.

“mutilation.” It held that while some changes are naturally expected during the transition from book to film, such changes must not result in a complete reworking or distortion of the original narrative. The adaptation must remain faithful in spirit and not transform the work into something fundamentally different.

- Scope of protection extends beyond written form: The Court emphasized that moral rights are not confined to the literary version alone. Section 57 covers all manifestations, including visual and audio representations of a work.
- Remedies post-assignment: Even if the copyright has been assigned wholly or partially, the author retains the right to seek remedies for any moral rights violation.

Thus, Section 57 provides enduring protection to authors, preserving their personal connection and reputation linked to their creations. This judgment serves as a significant precedent in Indian copyright law, particularly in clarifying the scope of moral rights and how they continue to protect an author's reputation, even after rights have been contractually assigned.

MANAGEMENT AS A MEDIATOR BETWEEN FAIR DEALING AND EXCLUSIVE RIGHTS

The law aims to strike a balance by granting exclusive rights to creators while also allowing fair use for the public, a balance that can be improved with effective management. Doctrines such as fair use in the U.S. and fair dealing in India are primarily designed to permit the use of copyrighted content without the need for the rights holder's consent, especially when the usage supports public interest activities like education or research.¹⁵ Daniel Gervais contends that the concept of "transformativeness" lies at the heart of fair use, emphasizing that the aim should be to create something new, not merely repurpose existing content, but such a notion is not relevant in India. He suggests that the assessment of fair use involves a kind of equation—one that considers the originality of the source work, how much of that originality is carried over into the new creation, and the degree of new expression or purpose introduced by the creator of the derivative piece.¹⁶

¹⁵ *FAIR DEALINGS AND FAIR USE: Critically Analysing the Copyright Exemption Doctrines in Place in India and the United States*, MANUPATRA, <https://articles.manupatra.com/article-details/FAIR-DEALINGS-AND-FAIR-USE-CRITICALLY-ANALYSING-THE-COPYRIGHT-EXEMPTION-DOCTRINES-IN-PLACE-IN-INDIA-AND-THE-UNITED-STATES> (last visited July 16, 2025).

¹⁶ K.R. Yadav, *Moral Rights and Indian Copyright Law*, 2 Int'l J. Res. Eng. Sci. & Mgmt. 207 (2019), https://ijresm.com/Vol.2_2019/Vol2_Iss7_July19/IJRESM_V2_I7_56.pdf (last visited July 16, 2025).

One of the great contribution of effective management can be observed in the form of Collective management, a mechanism within the copyright framework that enables or, in some cases, requires rights holders to oversee their rights through a Collective Management Organization (CMO) since, handling copyright and related rights on an individual basis is often impractical. CMOs serve as intermediaries, streamlining the licensing process for both creators and users while ensuring fair compensation for rights holders. Different models of collective management exist, including both mandatory/statutory systems and voluntary/contractual arrangements.

FUNCTIONS OF CMOS

- Tracks the usage of creative works, including when, where, and how they are used;
- Engages in negotiations with users regarding licensing terms and fee structures;
- Issues licenses on behalf of its members and represented rights holders; and
- Collects royalties from users and distributes them to the respective rights holders.¹⁷

CONCLUSION

In conclusion, India's copyright framework must evolve to effectively support creativity, protect authorship, and navigate the challenges of the digital age. This requires a dual focus: enhancing legal protections, particularly through recognizing moral rights like paternity and integrity under Section 57, and reinforcing robust rights management systems such as Collective Management Organizations. Copyright, while granting exclusive rights to creators, must also maintain a fair balance with public interest through doctrines like fair dealing. By ensuring due credit and preventing unauthorized replication, the legal system fosters innovation while preserving individual dignity. Ultimately, a well-managed copyright regime—grounded in fairness, economic incentive, and creative recognition—can empower individuals and sustain a culture of originality and accountability.

¹⁷ World Intellectual Property Organization, *Collective Management of Copyright and Related Rights*, WIPO, <https://www.wipo.int/en/web/copyright/collective-management> (last visited July 16, 2025).