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Judicial Framework Governing Moral Rights in Short-Form Digital Content: A Study of Reels, TikTok, and Shorts”

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Judicial Framework Governing Moral Rights in Short-Form Digital Content: A Study of Reels, TikTok, and Shorts”

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Introduction

These days, one faces a plethora of copyright issues pertaining to moral rights of authors, a historic and significant aspect of copyright law in almost every part of the world. The fundamentals of copyright law are at cross-roads with the concept of moral rights.

Moral rights specifically are the personal rights of an author in context of the integrity of their works in order to prevent revision or alteration regardless of the ownership. They offer an interesting counterpoint to the powerful economic considerations that dominate modern copyright discourse – and, perhaps, the prospect of new approaches to the resolution of copyright conflicts. The evolution of a moral rights regime under the Indian Copyright Act, 1957 has been gradual, interactive and author-friendly. The British colonial government in India introduced the Indian Copyright Act, 1847 which offered protection to author's works by providing exclusive rights to their creative works, hitherto unknown in India.¹

Judicial pronouncement

The earliest case around the issue of moral rights can be traced back to 1987 in the case of *Mannu Bhandari v. Kala Vikas Pictures Pvt. Ltd. and Ors.*² This case held that Section 57 is not limited to literary works, but extends to visual and audio manifestations.⁴

Originally, moral rights were provided with a perpetual term of protection in the Act, whereas economic rights had a limited duration of protection. The Copyright (Amendment) Act 1994 introduced the model of protection of moral rights, consolidated under the Final Paris Act, 1971 of the Berne Convention, which specified that the moral rights should be protected independently of the author's economic rights.

Another significant change which took place in India was implemented by the Copyright (Amendment) Act 2012.³ The concept of perpetual moral rights was reintroduced in 2012 by this act, bringing back a dualistic model of separate regimes for economic rights and moral rights. Additionally, this 2012 Amendment introduced moral rights for performers, in compliance with the WIPO Performers and Phonograms Treaty, 1996 ("WPPT") and the Beijing Treaty on Audio-Visual Performances, 2012.⁴

¹ Act No XX of 1847, Calcutta 1848; Printed at the Military Orphan Press, W Ridsdale, and 'An Act for the Encouragement of Learning in Territories Subject to the Government of East India Company, by Defining and Providing for the Enforcement of the Right Called Copyright Therein'.

² AIR 1987 Delhi 13.

³ The Copyright Amendment Act 2012 (Act of 27 of 2012), came into effect on 21 June 2012.

⁴ The Copyright (Amendment) Act 2012, s 38B; WIPO Performances and Phonograms Treaty (WPPT), art 5; The Beijing Treaty on Audio-visual Performances, 2012, art 5.

The case of *Amar Nath Sehgal v. Union of India*⁵ is considered to be the landmark case for moral rights. The plaintiff created a bronze sculpture which was displayed in the International Convention Hall in Delhi, for two decades, but then was pulled down and dumped in a storeroom. The plaintiff brought an action against the Government of India under Section 57 of the Copyright Act, 1957. The court ruled that Section 57 should be interpreted in its widest sense to include destruction of a work of art, being the extreme form of mutilation. Destruction of work reduces the volume of the author's creative corpus, thereby affecting his reputation prejudicially. Mutilation is nothing but destruction to render the work imperfect. The Court elucidated the scope of moral rights under Section 57 by categorizing it into four types: Paternity right, Dissemination right, Moral Right of Integrity and Right to Retraction. Paternity right is referred to as the right to be associated with the work, Dissemination right is referred to as the economic right to sell the work for valuable consideration, Moral right of Integrity incorporates the right to maintain purity in the work and the Right to Retraction bestows power on the creative artists' to withdraw their work from publication.

However, judiciary's approach has not been consistent with regard to moral rights. This can be illustrated by the conflicting dictum passed in the recent 2018 case of *Raj Rewal v. Union of India*,⁶ in which, the court gave diametrically opposite views from the case of *Amarnath Sehgal*.

In *Raj Rewal* case, moral rights of the author of Hall of Nations (a building in Pragati Maidan, Delhi) were at stake. The plaintiff was called upon by the ITPO, (the defendant) in 1979 to build the Hall of Nations to mark cultural progression on 25th Independence Day of India. The Hall of Nations was built using the space frame structure, not only for the roof but also for adjacent anchoring walls, using concrete, it was also recognized as a site for cultural heritage. However, in 2017, the Hall of Nations was demolished in order to build another complex. The plaintiff made various representations to the Government and had filed various petitions but all in vain. The plaintiff had then approached the Delhi High Court to claim damages from the defendants as demolishing his work caused harm to his reputation.

The issue at hand was, whether any moral rights subsisted with the plaintiff as ITPO was the actual owner of the Hall of Nations and whether moral rights are a hindrance to right to property, which is a constitutional right enshrined in Art. 300A of the Constitution of India and if yes, which shall prevail.

The court ruled that the Hall of Nations was a property owned by ITPO and the moral rights of the plaintiff are in direct conflict with the defendant's right to property, which is a constitutional right. Moral rights did subsist in the plaintiff as these are the rights granted by virtue of being the author of a work. However, the Copyright Act or any legislation can never be supreme to the Constitution of India as it is the source of every law in this country. Hence, moral rights cannot hinder the right to property of the defendant, which is constitutional right.

Both these judgements show a stark contrast as the interpretation of the word 'mutilation' was literal in *Rewal's* judgement and quite liberal in *Sehgal's* case. Both these judgements had different approaches to moral rights based on the facts and rights affected of the parties. The approach to moral rights had differed significantly as in *Sehgal's* case, the question of right to property was never scrutinized nor even considered, however *Rewal's* judgement clearly points out that right to property, being a constitutional right stands on a higher pedestal than rights granted by the Copyright Act, 1957. In the latter case, the court had clearly mentioned that *Sehgal's* case would be inappropriate to cite given that a mural is very different from an architectural design like a building, even if they do come under the same category of copyright protection, namely 'Artistic Work'.

⁵ 2005 (30) PTC 253 (Del).

⁶ (CS (COMM) No.3/2018.)

The necessity of moral right has also been a topic of debate all over the world. However, in India, there is no concrete jurisprudence available regarding waiving of copyright law, but in the case of *Sartaj Singh Pannuv Gurbani Media Pvt. Ltd. & Anr*⁷, it was given that a voluntary waiver is not against public policy and voluntariness has to be ascertained based on the evidence available on record. Some scholars⁸ suggests that if moral rights are in contradiction to the public policy, Indian law may permit the waiver. The counter argument is that moral rights are so conceptually inherent to the author, they cannot be waived and can be seen analogous to fundamental rights vested in the Constitution of India.

These two varying views present an example of the subjective difficulty relate to the moral rights. With the advent of digital era moral rights seem to have fallen behind in contradiction to the enhancement of copyright law in technology. The author of the software program might be unaware of the modifications which is directly hampering the integrity of his moral rights. India has to take steps in order to preserve moral rights with the concept of harmonious interpretation so as to reconcile with varying perceptions of the same.

The Creator's Paradox: Between Innovation and Infringement

The law surrounding user-created content creators is gray and at a borderline as creativity and copyright infringement collide. According to Section 51 of Copyright Act,⁹ infringement occurs when any unauthorized reproduction, adaptation or communication of any copyrighted work to the people is done. Instagram reels with music by bollywood or YouTube short with film clips or memes based on a copied work of art can violate these clauses. Nonetheless, the innovative nature of much UGC makes the application of the traditional infringement standards difficult. The Act in Section 52¹⁰ specifies certain exceptions of fair dealing whereby the use of the copyrighted works can be made under the conditions of criticism, review or reporting of the ongoing events. The Delhi High Court in *Civic Chandran v. Ammini Amma*¹¹, held that transformative works – those that add commentary, criticism, or a new expression or meaning – may qualify for protection under the doctrine of fair dealing. This principle is particularly relevant to creators of memes and parody content, as well as social media influencers who use edited videos for purposes of critique or commentary. Nevertheless, the fair dealing provisions in India are even more restricted than the fair use doctrine in the United States, with no discretion left to the courts and instead obliging them to apply the given purposes listed in the laws. The business aspect also makes things worse. Fair dealing may also apply to non-commercial parodies or other educational works, but commercial UGC (*sponsored Instagram Reels with copyrighted music, branded memes, etc.*) generally does not fall within these exceptions. The Copyright (Amendment) Act, 2012 extended fair dealing to deal with cinematograph films and sound recordings to reflect the realities of digital technology, but with operation on restrictive foundations. The creators are caught in the paradox of platforms promoting viral content with the help of an algorithm and copyright law, which may criminalize such creativity with the help of Section 63 and 66, which provide penalties of imprisonment and fines in cases of willful infringement.

⁷ 220 (2015) DLT 527.

⁸ Sonia Baldia, Intellectual Property in Global Sourcing: The Art of Transfer, 38 GEO. J. INT'L. L. 499 (2007); Mira T Sundara Rajan, Moral Rights in the Public Domain: Copyright Matters in the Works of Indian National Poet C Subramania Bharati, SING. J.L.S.161, 175 (2001)

⁹ *Warner Music Group Files \$24 Million Lawsuit Against Crumb! Cookies Over Alleged TikTok and Instagram Infringement*, *Digital Music News* (Apr. 23, 2025), available at [Link](#).

¹⁰ Copyright Act, 1957, No. 14 of 1957, *India Code* (2021).

¹¹ *Civic Chandran v. Ammini Amma*, (1996) 16 PTC 670 (India).

This tension is displayed in recent cases such as the ANI vs Youtubers Controversy which shows that intensive enforcement of copyrights can suppress fair commentary and criticism. The exorbitant licensing fees charged by ANI to the content creators such as Mohak Mangal of up to Rs. 48 lakh is an indication of how copyright strikes are being weaponized against transformative uses probably considered as fair dealing.¹² The courts are paying more attention to the fact that fair dealing should be liberally construed so as to save freedom of expression in accordance with Article 19(1)(a) of the Constitution¹³ but in practice it has been inconsistently applied.

Platform Liability: From Safe Harbor to Active Participation

Digital intermediaries and user-generated content Platforms (UGC) are in an awkward legal limbo between passive conduits and active content creators. IT Act of 2000 gives a conditional protection of no liability in regard to third party content on the site, however, this immunity is diluted when sites go beyond hosting services. The clarification of the Supreme Court in the case of *Google India Pvt. Ltd. v. Vishakha Industries*¹⁴ highlighted that safe harbor is only limited to the case of intermediaries as neutral facilitators and not knowing or having control over the content that is sent by the intermediaries. However, the recent UGC sites actively curate content using recommendation algorithms, monetize uploads by using advertising, and viral copyrighted content.

The Content ID system on YouTube and the automatic recognition features on Instagram, as well as the licensing of the music library on the Tik Tok platform, evidences the transition of platforms to a new stage of not just being passive hosts but rather managing the content. This modification is going to dispute the traditional assumptions of a safe harbor, and could expose platforms to contributory liability in case they are unable to block repetitive violations.

The rules of the *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) 2021*, requires proactive due diligence procedures, such as the grievance systems, content removal processes, and the timely reaction to the notifications concerning an infringement within 36 hours.¹⁵ Platforms must strike a careful balance between automated content moderation and human oversight to avoid unnecessary blocking of material that qualifies as fair dealing. The risks of algorithmic enforcement without contextual understanding have been demonstrated by experiences on platforms like YouTube, where automated copyright claims can wrongly target transformative content, potentially threatening creators' channels. Legal developments are increasing the pressure on platforms to align their practices not only with technical compliance but also with broader legal standards. The Delhi High Court, in *Christian Louboutin SAS v. Nakul Bajaj & Ors.*¹⁶, clarified that platforms exercising editorial control or monetizing specific content may not qualify for safe harbor protections, highlighting the distinction between active and passive intermediaries. The decision in *Ramkumar v. Union of India* also stressed the idea that in cases where the content comprises grave offenses, middlemen cannot be neutral, which is an indication that the courts expect to hold the latter more accountable.¹⁷

¹² ANI Finds Business Niche in Copyright Claims Against YouTubers, THE REPORTERS' COLLECTIVE (May 18, 2025) [Link](#)

¹³ INDIA CONST. art. 19, cl. 1(a)

¹⁴ *Google India Pvt. Ltd. v. M/s Visakha Indus.*, AIR 2020 SC 350 (India).

¹⁵ Yohann Titus Mathew, *Rule 3(1)(b), Intermediary Liability, and the Burden of "Reasonable Efforts"*, NLSIU Bangalore (IJLT Blog) (Aug. 21, 2025) [Link](#)

¹⁶ *Christian Louboutin SAS v. Nakul Bajaj & Ors.*, CS(COMM) 344/2018, 2018 SCC OnLine Del 12036(India).

¹⁷ *Ramkumar v. Union of India*, W.P. No. 18193 of 2024, Madras High Court (2025) (India).

The liability of the platform is not limited to copyright but also moral rights as provided in Section 57 of the Act.¹⁸ In case UGC platforms interfere with original works by parodying them or remixing them, creators might argue that they are having their moral interests distorted. Social media hosting this type of content without proper licensing systems and those lacking permission systems by creators are prone to be held liable in the perpetration of moral rights infringement, regardless of whether such use is non-commercial.

Rights Holders' Responsibilities: Licensing, Enforcement, and Fair Access

It is important that copyright holders should take the primary responsibility of developing consistent licensing policies that will accommodate UGC and at the same time safeguard the interests of the copyright owners.¹⁹ A large number of platforms accept blanket synchronization licenses with music labels and recording studios and, in theory, allow users to include content under copyright in platform-specific uses. They are, however, frequently not fully granted, making it difficult to distinguish whether it constitutes commercial application when influencers use licensed music in their sponsored content or brands use trending soundtracks in their marketing campaigns.

The Section 30 of the Copyright Act obliges that direct, explicit, written license be granted by the authorized parties.²⁰ Unclear licenses and small deviations or lack of uniformity in enforcement of said license can make the further assertion of copyright arbitrary or even unenforceable. This is complicated by collective licensing, which involves several rights holders, such as composers, performers, and labels, all of which might make conflicting claims which must be addressed in coordinated rights grants.

Section 57 additionally grants rights holders moral rights such as the right to integrity and attribution which are not limited to economic interests. Even in situations where the economic harm is minor, the meme modification, satirical edit or parody adaptation can violate these moral rights.²¹ Nevertheless, such aggressive forms of enforcement on the transformative UGC will lead to its negative reputation and even the accusation of cultural gatekeeping.²² Striking the balance between ensuring artistic integrity and encouraging creative expression must be approached in subtle ways with consideration of both the rights of creators and social conventions.

The recent litigation trends indicate how rights holders have strategically applied copyright enforcement to achieve larger business goals. The targeted approach of ANI to the YouTubers seems to be aimed at creating the sources of licensing revenues instead of avoiding the actual infringement. Equally, the changing strategies of licensing by music platforms and labels can be seen as changing monetization strategies that can put control over access into perspective. The case of Tik Tok users being sued and further negotiations with the company, which was initiated by the Warner Music Group, show that the realization of copyright takes a tangled turn in the relations between the industry and the user.

The occurrence of the meme economy of India, which is worth more than INR 3,000 crore

¹⁸ Copyright Act, 1957, § 57, No. 14 of 1957, *India Code* (2021).

¹⁹ Prashant Reddy T., *The Background Score to the Copyright (Amendment) Act, 2012*, 5 NUJS L. Rev. 469 (2012).

²⁰ Copyright Act, 1957, § 30, No. 14 of 1957, *India Code* (2021).

²¹ David A. Simon, *Copyright, Moral Rights, and the Social Self*, 34 *Yale J.L. & Human* 1 (2023).

²² Cathay Y.N. Smith, *Creative Destruction: Copyright's Fair Use Doctrine and the Moral Right of Integrity*, 47 *Pepperdine L. Rev.* 601 (2020).

shows the economic value of transformative UGC.²³ The holders of the rights must be able to strike a balance between ensuring that they enforce the copyright, yet they should also acknowledge that derivative works can add value to the original content and not downgrade it. Trending audio clips, viral memes, and similar materials tend to encourage interaction with original content, and thus collaborative and non-adversarial practices might be in the best interests in the long-term.²⁴

Regulatory Evolution: Toward Balanced Innovation Frameworks

The copyright industry in India needs to be recalibrated in its requirements and response to UGC realities without undermining the incentives of creators. Existing frameworks which are tailored to the traditional media distribution sector fail to sufficiently support the algorithmic curation, viral transformation, and collaborative creativity of digital platforms. The task of reform has to be inclusive of the various interests of the stakeholders, with the ability to promote innovation and cultural expression.

Section 52 on fair dealing could have specific limits set on parody, satire and transformative use by codification into law by Parliament. Other countries such as Canada and United Kingdom have also identified parody as fair dealing purposes and as such, they give legal assurance to satirical material which contributes commentary or criticism to the original work. These amendments would bring the Indian law into modern creative practice without limiting the ability to protect the rights owners against purely exploitative use.

Technological solutions may be used as a good direction to decrease friction between creators, platforms and rights holders. The value of an infrastructural-level rights management system based on blockchain may offer transparent attribution, automatic licensing, and fair distribution of revenues on transformative works. False copyright claims could be reduced if fair dealing analysis were built into Content ID systems, without negating genuine enforcement. Such systems could be automated by machine learning algorithms capable of distinguishing between infringing reproduction and transformative commentary, reserving human review for difficult cases. Jurisprudence is still developing toward more subtle strategies of digital creativity. Courts are beginning to appreciate that strictness in applying the conventional doctrines on copyright can result in stifling of expression that is protected under Article 19(1)(a) of the Constitution. The fair dealing provision which implies that the fair dealing provisions should be given a liberal interpretation in order to uphold freedom of expression implies that the judiciary would be inclined to interpret copyright law in accordance with the contemporary realities. Nevertheless, it is difficult to apply uniformly across jurisdictions and platforms unless there is more explicit statutory guidance on it.

Fair Dealing vs Infringement

Fair dealing serves as an exception to copyright infringement under Section 52 of the Act. While unauthorised use of copyrighted content is generally considered infringement under Section 51, certain uses are legally permitted under fair dealing, provided they meet specific conditions. Fair dealing allows limited use of copyrighted works without permission for purposes such as research, criticism, review, reporting, teaching, and parody. For example - using a film clip in a critique video could be fair dealing, but reposting full movie scenes for

²³ Team Reelstars, *Meme Pages in Trouble: How India's Meme Creators Face Legal Risks in an INR 3,000 Crore Industry, The Reel Stars* (May 22, 2025).

²⁴ Ben Picozzi, *What's Wrong with Intentionalism? Transformative Use, Copyright Law, and Authorship*, 126 Yale L.J. 1408 (2017).

entertainment would likely be infringement. A meme page using a famous film dialogue with edited text to comment on current events is considered fair dealing however, if they use a substantial portion of the work without transformation for purely commercial purpose, they might not take the defense of fair dealing.

In *India TV v. Yash Raj Films (2013)*, the Delhi High Court held that India TV's use of short clips from Yash Raj Films' copyrighted content did not amount to infringement, as it was minimal and incidental. The court applied the *de minimis* principle, ruling that the three-second clip from *Kajra Re* and the chat show segment where singer Vasundhara Das performed excerpts of her own songs were trivial uses that did not harm the copyright holder's commercial interests. The court emphasized that while fair dealing must be assessed on a case-by-case basis, minor, non-commercial uses that do not exploit copyrighted content unfairly may not be considered infringement. However, it clarified that visual clips from cinematographic films should generally not be used without permission.

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