
JUDICIAL EXPANSION OF MORAL RIGHTS: THE PRECEDENTIAL IMPACT OF AMAR NATH SEHGAL V. UNION OF INDIA ON INDIA'S COPYRIGHT JURISPRUDENCE

Akil A, Jindal Global Law School

ABSTRACT

The paper delves into the important case of *Amar Nath Sehgal v. Union of India* (2005)¹ and analyses the impact on moral rights which is defined under section 57 of the Copyright Act², 1957. This case upheld authorial dignity and cultural preservation over institutional ownership. It also incorporated international norms such as the Berne Convention and UNESCO frameworks. This legal perspective is reflected in the 2012 Amendment of the act which recognition of perpetual moral rights. This case actually established India as a progressive jurisdiction which safeguards cultural heritage through protection of creator's moral rights.

INTRODUCTION

Moral rights are intended to protect an author's intrinsic interest in attribution and integrity, showing that he or she continues to have some connection to their products of imagination other than mere economic ownership. The court adjudged that destruction of an artwork amounts to the "extreme form of mutilation" according to Section 57 of the Copyright Act, 1957. This seminal judgment widened the ambit of protection under moral rights by including reputation of the artist and his cultural heritage within the copyright law. This paper will examine how Sehgal's precedential influence has shaped India's distinctive moral rights regime and implications thereof.

BACKGROUND

The core provisions for moral rights are found under Section 57 of the Copyright Act 1957³,

¹ *Amar Nath Sehgal v. Union of India*, 2005 (30) PTC 253 (Del).

² The Copyright Act 1957, s 57 (India)

³ *ibid*

which recognizes these rights as an 'author's special right'. This designation emphasizes the importance of the creator's genius and aims to protect social interest. Indian courts have upheld these claims, recognizing authors' personal, social, and cultural rights associated with their creative works. The moral rights under the Indian Copyright Act 1957 (the Act) represents a gradual, iterative, and author-friendly evolution. It is because of India's national cultural perspectives and its obligations under international conventions which includes Berne Convention and the WIPO Treaties.

NATURE OF MORAL RIGHTS

The Indian regime treats moral rights as being absolute, perpetual, inalienable, imprescriptible, non-assignable, non-transferrable, and non-waivable. Although the 1994 amendment temporarily adopted a 'monistic' model where moral rights were co-terminus with economic rights, the Copyright (Amendment) Act 2012 re-established the concept of perpetual rights for authors, reinforcing the dualistic model.

Rights Under Section 57: The moral rights regime in India includes two fundamental internationally recognized rights, in compliance with Article 6bis of the Berne Convention:

- 1. Right to Paternity (Attribution):** This is the foremost moral right, recognizing the claim of authorship. It extends to all kinds of works, requiring the author's name to be displayed. This right exists independently of the economic rights provided under the Act, even after those rights have been wholly or partially assigned.
- 2. Right to Integrity (Right to Respect):** This right allows the author to restrain or claim damages in response to **any distortion, mutilation, modification, or other act** relating to the work. Crucially, for a claim to succeed, the author must demonstrate that such treatment would be **prejudicial to his honour or reputation**⁴.

Authors or performers can enforce civil remedies, such as a restraint order or damages, for the violation of these special rights, even after assigning their economic rights. The Act also provides certain exceptions to moral rights in the public interest.

⁴ *ibid*

FACTS OF THE CASE

The case of *Amar Nath Sehgal v. Union of India* revolved around the violation of moral rights under the Copyright Act, 1957. The dispute originated when Amar Nath Sehgal, an internationally renowned sculptor, was commissioned by the Government of India in 1957 to create a bronze mural for Vigyan Bhawan. The mural, an expansive artwork measuring 140 feet in length and 40 feet in height, was designed to adorn the entrance lobby of the building. It was regarded as a representation of the spirit of India's cultural and scientific advancement which blends traditional heritage with modern progress. The mural was regarded as a modern national treasure. It embodied the nation's evolving identity.

The mural was abruptly taken down and removed without the artist's consent in 1979. It was later discovered that the mural had been consigned to a government storeroom. Due to this it suffered extensive damage and mutilation. The condition of the art deteriorated severely. Despite numerous representations to the authorities, Sehgal's pleas for restoration and redressal remained unaddressed for years. Left with no recourse, he eventually filed a suit in 1992, seeking legal remedy for the destruction of his work and the violation of his moral rights as an author⁵.

ARGUMENTS

The plaintiff contended that the Government's actions violated his special rights under Section 57 of the Copyright Act, 1957, which safeguard an author's moral rights independent of economic rights. Sehgal's counsel emphasized that destruction constituted the "extreme and ultimate form of mutilation," thereby violating his right to integrity. The mutilation of the mural was prejudicial to his honour and reputation, as it diminished his artistic legacy and the cultural value of the work. The plaintiff further argued that the act not only destroyed his creative expression but also harmed India's cultural heritage. Regarding the defence of limitation, Sehgal maintained that the claim was not time-barred since the Government had continued to engage with him and showed willingness to restore the mural as late as 1991, thus keeping the cause of action alive.

The Union of India, in its defence, asserted that it was the rightful owner of the mural, having commissioned and paid for it. Therefore, it had the authority to store or remove the mural as

⁵ *Amar Nath Sehgal v. Union of India*, 2005 (30) PTC 253 (Del).

deemed fit. The defendants also relied on the defence of limitation, arguing that since the mural was removed in 1979 and the suit was filed in 1992, the claim was barred by time⁶.

THE COURT'S DECISION

The Delhi High Court ruled in favour of Amar Nath Sehgal. On the issue of limitation, the court held that the suit was filed within the permissible time frame. It noted that the Government had continued correspondence with the artist until 1991, expressing an intention to restore the mural, which extended the limitation period.

The court gave an expansive interpretation to Section 57 of the Copyright Act as it recognized that moral rights form the “soul” of an author’s work. It observed that destruction of an artwork is indeed the gravest form of mutilation and thus falls within the scope of moral rights violations. The court found that the government’s actions had infringed Sehgal’s right to integrity. It caused injury to the cultural heritage of the nation.

The court issued a mandatory injunction directing the Union of India to return the remnants of the mural to Sehgal as a part of relief. It declared that all rights in the mural would vest solely in the plaintiff. The defendants do not have any right. The court affirmed Sehgal has absolute absolute right to recreate and sell the mural in the future. The court also awarded damages of ₹5 lakhs to the plaintiff for the loss of reputation, honour, and mental anguish suffered due to the wrongful acts of the Government. This landmark judgment reaffirmed the importance of moral rights in protecting artistic integrity. It also set a strong precedent for the protection of cultural property and creative authorship in India⁷.

INTERNATIONAL CONVENTIONS AND THEIR APPLICATION IN AMAR NATH SEHGAL V. UNION OF INDIA

This judgment demonstrates a sophisticated legal synthesis as it invoked three key international instruments to expand the scope of moral rights protection beyond traditional domestic interpretations. This approach illustrates how international law can be integrated with national copyright jurisprudence to enhance artist protection and cultural heritage preservation.

⁶ Amar Nath Sehgal v. Union of India, 2005 (30) PTC 253 (Del).

⁷ *ibid*

I. Application of the Berne Convention

The Berne Convention for the Protection of Literary and Artistic Works were the primary international instrument which guided the court. The court also mentioned that since its inception in 1886 the Berne Convention has set the international standard for copyright law. The judgment focused on Article 6bis⁸ which makes sure that the author retains the moral rights of attribution (paternity) and integrity even after the transfer of economic rights. Specifically, Article 6bis grants the author the right "to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honour or reputation".

The court acknowledged that India's amended Section 57 was brought into conformity with the Berne Convention, requiring proof that the distortion, mutilation, modification, or other act would be "prejudicial to his honour or reputation" for damages or restraint to be claimed.

Crucially, the court used the spirit of the Berne Convention to address the destruction of the mural. While the narrow view might suggest that destruction (since the work ceases to exist) cannot prejudice reputation, the court adopted the wider view, holding that the destruction of a work of art is the "extreme and ultimate form of mutilation". Destruction reduces the author's creative corpus, thus affecting his reputation prejudicially and making it actionable under Section 57.

II. Linking Moral Rights to Cultural Heritage

Beyond the Berne Convention, the court analytically drew upon other international instruments to enforce the State's obligation to protect the mural as part of the cultural heritage of the nation. The judgment cited multiple declarations and conventions to demonstrate the global recognition of cultural rights, including:

1. The International Covenant on Economic, Social and Cultural Rights (1966): This covenant requires State Parties to recognise the right of everyone "To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic

⁸ Berne Convention for the Protection of Literary and Artistic Works (Paris, 24 July 1971) art 6bis

production of which he is the author"⁹.

2. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of ownership of Cultural Property (1970): The court noted that this convention includes "original work of statuary art and sculpture in any material" within the definition of cultural property and records the moral obligation of every State to respect its own cultural heritage¹⁰.

3. The Declaration of the Principles of International Cultural Co-operation (1966): This supports the aim of enabling everyone to "enjoy the arts and literature of all peoples".

The court affirmed that India, as a signatory to these international declarations, is obliged to honour its commitments. These conventions impose three obligations on States: to respect, protect, and preserve cultural rights. By interpreting Section 57 in its "wider amplitude," the court found that it is possible to "legally protect the cultural heritage of India through the moral rights of the artist"¹¹.

Ultimately, the court held that the defendants violated Sehgal's moral right of integrity, and significantly, they "also violated the integrity of the work in relation to the cultural heritage of the nation," thereby enforcing the broader implications derived from international law.

4. Triple Obligation Structure

The court distilled from these international instruments that "Each one of the Conventions above noted impose three obligations on States: (i) to respect the cultural right, (ii) to protect the cultural right, (iii) to preserve the cultural right".

This tripartite framework enabled the judgment to argue that India's treaty obligations required expansive interpretation of Section 57 to encompass destruction as "the extreme form of mutilation" and to protect works that achieve "modern national treasure" status¹².

⁹ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 15(1)(c)

¹⁰ Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (adopted 14 November 1970, entered into force 24 April 1972) 823 UNTS 231, art 1(g)(ii)

¹¹ Declaration of the Principles of International Cultural Co-operation, UNESCO General Conference Res, 14th sess, UNESCO Doc 14C/8.1 (4 November 1966) art IV (4)

¹² Amar Nath Sehgal v. Union of India, 2005 (30) PTC 253 (Del).

2012 AMENDMENT TO SECTION 57

The 2012 Amendment marked a shift by the legislature toward widening the ambit of Section 57 of The Copyright Act, 1957, overturning a previous trend of caution and restrictive approaches.

The amendment introduced two significant alterations to Section 57:

I. Perpetual Protection

The words "which is done before the expiration of the term of copyright" were omitted from sub-section 1. This omission restored the original application of the section regarding duration. As a result, authors' lawyers may seek injunctive relief or monetary compensation for actions such as altering, defacing, changing content, or otherwise harming their copyrighted material, regardless of when these wrongful activities take place post-copyright expiration.

II Succession of Authorship Rights

The words "other than the right to claim authorship of the work" were omitted from sub-section 2. This change allows the author's legal representatives to exercise all rights provided in the Section 57. This effectively eliminated the previous distinction that prevented these agents from asserting the author's right to claim authorship.

Additionally, the 2012 Amendment incorporated a new section, 38B, recognizing the moral rights of performers, aligning with Article 5 of the WIPO Performances and Phonograms Treaty, 1996. Article 38B empowers performers by granting them rights in their creations while acknowledging the potential for altering performance content digitally. Nevertheless, within this segment, it is explained that editors can carry out their duties unhindered by legal repercussions, thereby aiming to harmonize the interests of the creator and the actors involved. Unlike the owners of copyright, the performer's legal representatives cannot exercise their moral rights under Section 38B.

BALANCING AUTHORIAL DIGNITY AND INSTITUTIONAL OWNERSHIP

The critical analysis of balancing Authorial Dignity and Institutional Ownership in India centres on a paradoxical conflict between the expansive judicial approach and the historically

restrictive legislative stance regarding moral rights. Authorial dignity is protected by moral rights, which shield the creator's personality, honour, and artistic spirit, remaining inalienably attached to the author even after economic rights are transferred. The Indian judiciary operates as a "champion of culture," prioritizing the preservation of cultural heritage. Judges interpret Section 57 as a "telescope, for legally safeguarding the cultural heritage of India," focusing on the profound relationship between authors and their works. This was demonstrated in *Amar Nath Sehgal*, where the destruction of art was included within the definition of mutilation, protecting the author's creative corpus and reputation.

The counterbalance comes from the interests of Institutional Ownership, primarily represented by the legislature's initial concerns, which were focused on economic and fiscal practicality. The reluctance to broaden moral rights stemmed from the fear of creating a "hefty sum of liability" for the government (which owns copyright in many significant works). Additionally, the legislature worried that extensive authorial rights would make India a "less attractive destination for foreign investment" in commercial creative enterprises like films, by increasing costs and liability. This institutional perspective aligns more closely with the common law tradition, which views copyright primarily as an economic property right subject to market forces, contrasting sharply with the concept of an inalienable personal link¹³.

This critical tension highlights the difficulty in integrating the personality-driven protections of droit moral with the economic realities of commercial and state ownership. Although the legislature's concerns regarding litigation and liability were deemed "real and significant," the sources express doubt regarding their logic and practicality, underscoring the ongoing struggle to reconcile dignity and economic utility within Indian copyright law.

CONCLUSION

The Amarnath Sehgal judgment established a foundational precedent, radically expanding the interpretative scope of Section 57 to protect authors' inalienable moral rights. The Delhi High Court ruled that destruction is the "extreme and ultimate form of mutilation," thus violating the right to integrity and diminishing the author's reputation. By synthesizing international law, the judgment mandated the State to legally protect India's cultural heritage through the artist's moral rights. This judicial commitment led to the 2012 Amendment restoring perpetual

¹³ Nikhil Agarwal and Vinayak Ojha, 'Moral Rights: International Framework and Indian Approach' (2017) 6 Christ University Law Journal 1

protection for these rights. Ultimately, this case underscores the ongoing tension between upholding authorial dignity and managing concerns related to institutional ownership and potential liability.