
MORAL RIGHTS VERSUS COMMERCIAL RIGHTS UNDER THE COPYRIGHT ACT: CONFLICT IN THE INDIAN FILM AND MUSIC INDUSTRY

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ABSTRACT

This paper critically examines the persistent tension between moral rights and commercial rights under the Indian Copyright Act, 1957, with specific reference to the film and music industries. Moral rights which are codified under Section 57 of the Act, primarily confine the right of paternity (attribution) and the right of integrity. These rights are conceptualised as inalienable, perpetual, and enduring beyond the transfer or assignment of copyright. Judicial developments have constantly reinforced the centrality of moral rights. In *Mannu Bhandari v. Kala Vikas Pictures*, the Delhi High Court affirmed that moral rights survive contractual assignments, and that any distortion altering the essence of an author's work is impermissible. Similar to this, in *Amar Nath Sehgal v. Union of India*, the Court described moral rights as the very "soul" of the author's work and provided strong protection to artistic integrity by compensating an artist whose mural had been wrongfully removed and damaged.

In contrast, economic rights which involve reproduction, distribution, performance, and adaptation—are commercial in nature, which are transferable through contract, and limited in duration to the author's lifetime plus sixty years. In collaborative creative industries like cinema, copyright law often designates producers as the legal authors of the work, by excluding directors, composers, lyricists, and screenwriters from asserting meaningful moral claims over the final product. In the music industry, producers are able to maintain broad global rights while reducing the autonomy of the creator by contracting away both economic benefits and practical control over moral rights in exchange for instant compensation.

This paper argues that the unresolved conflict between the commercial importance of economic rights and the ethical foundations of moral rights continues to undermine the recognition, dignity, and autonomy of creators in India. It contends that a reform-oriented approach must reconcile the need for commercial flexibility with stronger institutional and statutory safeguards for authors' moral entitlements, particularly in the digital age.

Keywords: Moral rights, commercial rights, right of attribution, right of integrity, authorship, contractual assignment.

INTRODUCTION

Indian copyright law rests on a dual normative foundation that seeks to balance the commercial exploitation of creative works with the protection of an author's personal and creative identity. On one side are economic rights, codified under Sections 14 to 19 of the Copyright Act, 1957, which include the rights of reproduction, distribution, public performance, communication to the public, and adaptation. These rights are transferable, time-bound, and designed primarily to incentivise investment, production, and dissemination of creative works.¹ On the other side lie moral rights, protected under Section 57, which safeguard the author's right to attribution and the right to object to distortion or mutilation of their work. These rights are inalienable and perpetual, reflecting the enduring bond between creator and creation.²

The Indian film and music industries present the most visible and contentious arena for the clash between these two sets of rights. Both industries depend heavily on collaboration, mass consumption, and large-scale commercial investment. At the same time, they rely fundamentally on the creative labour of lyricists, composers, screenwriters, and directors. In practice, however, producers and music labels frequently emerge as dominant stakeholders, exercising extensive control over economic rights through contractual arrangements that marginalise individual creators.³ This discrepancy has been made worse by the rise of digital platforms, streaming services, and remix culture, where works are frequently altered, recontextualised, or shared without due credit.

Legal and scholarly discourse has long grappled with this conflict through various jurisprudential frameworks. Salmond's distinction between proprietary and personal rights situates economic rights in the proprietary domain and moral rights in the personal domain.⁴ Hegel's personality theory reinforces the moral dimension by viewing creative works as extensions of the author's personality, making misattribution or distortion an injury to personal identity.⁵ Bentham's utilitarian theory, in contrast, frames copyright as an instrument to

¹ The Copyright Act, No. 14 of 1957, §§ 14–19 (India).

² See *Amar Nath Sehgal v. Union of India*, (2005) 30 PTC 253 (Del.).

³ See *Mannu Bhandari v. Kala Vikas Pictures Pvt. Ltd.*, AIR 1987 Del 13.

⁴ John W. Salmond, *Jurisprudence* 241–43 (12th ed. 1966).

⁵ G.W.F. Hegel, *Philosophy of Right* ¶ 43 (T.M. Knox trans., Oxford Univ. Press 1967).

maximise collective welfare, often privileging commercial stakeholders such as producers and distributors.⁶

These theoretical positions draw attention to the continuous struggle in the Indian context between upholding the authorship and dignity of creators and preserving the commercial viability of capital-intensive cultural industries. This struggle is particularly acute in the film and music sectors, where contractual inequality, producer-centric authorship rules, and digital exploitation frequently undermine the practical efficacy of moral rights.⁷

LITERATURE REVIEW

Scholarly engagement about moral rights and commercial rights in copyright law has developed across different regions. This reflects ongoing philosophical disagreements about authorship, property, and creativity. Moral rights began in continental European legal systems, especially in France, while common law regions have typically preferred a practical, market-based approach. Indian copyright scholarship occupies a hybrid position, recognising both moral right and commercial rights. It recognise moral rights statutorily while permitting commercial practices that often dilute their practical enforcement.

Earlier writers on Indian Copyright law highlighted that Section 57 was based on European moral rights principle. Scholars pointed out that there was a clear shift from Anglo American copyright law , and they focused on protecting authors rights to have credit for their work and also to protect their integrity of their work.⁸ However, scholars soon pointed out that the wording of the statute was unclear, especially terms such as “distortion,” “mutilation,” and “prejudice to honour or reputation.” Several scholars argued that Indian courts initially interpreted these phrases narrowly, requiring proof of tangible reputational harm rather than recognising dignitary or symbolic injury to authorship. Critics argued that this narrow interpretation of having to provide proof for tangible harm than the reputational harm weakened the core philosophy behind moral rights.⁹

⁶ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* 309–12 (J.H. Burns & H.L.A. Hart eds., Oxford Univ. Press 1996).

⁷ Shamnad Basheer, *The (Im)Possibility of Moral Rights in Indian Copyright Law*, 3 NUJS L. Rev. 229, 245–48 (2010).

⁸ M. Ramachandran, “European Moral Rights and Indian Copyright,” 22 *IPR Rev.* 101, 105 (2012).

⁹ Lawrence Lessig, *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity* 68–72 (Penguin Press 2004).

Judicial analysis has received extensive scholarly attention, particularly in relation to landmark cases such as *Mannu Bhandari v. Kala Vikas Pictures* and *Amar Nath Sehgal v. Union of India*. Legal scholars have accepted Amar Nath Sehgal as the landmark for Indian moral rights case law. Scholars appreciated that the Delhi High Court treated moral rights as part of the artist's identity, rather than only supporting economic interests. At the same time, critics argue that the judgment remains under-utilised, with subsequent courts failing to consistently apply its expansive reasoning, especially in commercial entertainment contexts.

A significant body of literature focuses on authorship and ownership in collaborative works, particularly cinematographic films and sound recordings. Scholars concerned with Indian film law continually critique this producer-centred definition of authorship as one that represents an industrial model that is out of date and prioritizes investment certainty over creative contribution. These studies highlight how directors, screenwriters, lyricists, and composers—despite their substantial creative input—are structurally marginalised in copyright ownership frameworks. Academic critiques note that this imbalance weakens the enforceability of moral rights by reducing creators' bargaining power and public recognition.

In the music industry, research into the same has shown that contracts related to "one-time buyout agreements" have been quite common in the music world. The study done analyzing the occurrence and implications of such contracts in the music world shows that the practical control and economic interest in the long run are compromised in lieu of the immediate pay that these artists are paid for their work. In spite of the rights and freedoms inherent in the concept of "moral rights," in reality, these conditions set in various contracts act as "waivers," and hence it has been widely agreed upon in various forms of literature and analysis done in the topic that power asymmetry was at play.

The 2012 Copyright Amendment has also generated substantial scholarly debate. Initially welcomed as a progressive reform aimed at securing ongoing royalties for authors of literary and musical works incorporated into films, subsequent literature paints a more sceptical picture. Scholars document how producers have circumvented the amendment's intent through contractual reclassification of authors as service providers or by structuring assignments that neutralise royalty claims. Several commentators argue that the amendment, while symbolically significant, failed to address enforcement mechanisms and institutional weaknesses, thereby limiting its transformative potential.

Recent scholarship increasingly focuses on the impact of digital platforms on moral rights. In the literature focused on streaming services, social media, and algorithmic recommendations, the term “metadata erasure” is used to define the circumstance through which a user interface fails to display the artist's name, while technically, it exists in the background. The value of attribution right collapses, as the artist remains invisible. This body of work situates moral rights within broader debates on digital labour, platform capitalism, and cultural commodification, suggesting that traditional copyright doctrines are ill-equipped to address algorithm-driven invisibility¹⁰.

Comparative literature further enriches the discussion by contrasting India’s approach with jurisdictions that afford stronger protection to moral rights. French scholarship, for instance, treats moral rights as sacrosanct and largely immune from commercial dilution, while American literature often views them as secondary to market efficiency.¹¹ Indian commentators often observe that, while the approach in Section 57 fits neatly into civil law systems, the approach to enforcing that provision seems to favour common law utilitarianism and leads to a certain degree of doctrinal inconsistency.

Despite this extensive body of scholarship, a notable gap remains. The existing body of scholarship has largely treated moral rights, commercial rights, practices in contracts, and digital exploitation individually. There is limited integrated analysis that brings together jurisprudential theory, statutory design, industry practice, and digital transformation within a single framework. Moreover, relatively little attention has been paid to how these forces collectively shape the lived experience of creators in the Indian film and music industries.

This paper seeks to address that gap by synthesising theoretical perspectives with doctrinal analysis and industry realities. By situating moral rights within both philosophical discourse and contemporary commercial practices, the study aims to contribute to a more holistic understanding of the moral–commercial rights conflict in Indian copyright law.

THEORETICAL FOUNDATIONS OF THE CONFLICT

One way to conceptualise the tension between moral and commercial rights is through

¹⁰ John W. Salmond, *Jurisprudence* 241–43 (12th ed. 1966); G.W.F. Hegel, *Philosophy of Right* ¶ 43 (T.M. Knox trans., Oxford Univ. Press 1967).

¹¹ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* 309–12 (J.H. Burns & H.L.A. Hart eds., Oxford Univ. Press 1996).

Salmond's classification of rights. Salmond distinguishes proprietary rights, which are transferable and economic in nature, from personal rights, which are rooted in dignity and identity. This framework maps neatly onto copyright law: economic rights fall within the proprietary domain, while moral rights occupy the personal sphere. However, while Salmond's classification explains the structural division, it offers little guidance on how conflicts between these categories should be resolved, particularly in collaborative creative industries.

Hegel's personality theory provides a stronger normative foundation for moral rights. According to Hegel, property is an extension of personal will and identity rather than a mere economic asset. Applied to creative works, this theory views artistic expression as a projection of the author's personality. Consequently, distortion, mutilation, or misattribution of a work constitutes an injury not only to economic interests but to the author's selfhood. This philosophical grounding explains why moral rights are treated as perpetual and inalienable and why courts have described them as intrinsic to authorship.

By contrast, Benthamite utilitarianism approaches copyright from a social-welfare perspective. Under this theory, copyright exists to maximise overall happiness by incentivising creation and ensuring public access. Economic rights are therefore prioritised as tools to attract investment and facilitate distribution. From this viewpoint, moral rights may appear as constraints on efficient exploitation. Indian copyright law reflects this utilitarian impulse by granting producers wide control over commercially valuable works, particularly in films and sound recordings.

All these theories reveal to us the theoretical underpinnings of the conflict. As to Indian copyright law, it appears to draw on both the personality and the utilitarian traditions. The challenge comes when one attempts to translate these traditions into practice.

RESEARCH METHODOLOGY

This paper adopts a doctrinal and analytical research methodology. It is based on the study of primary legal sources, including the Copyright Act, 1957, and judicial decisions of Indian courts interpreting moral and economic rights. Secondary sources such as academic articles, commentaries, and theoretical writings are used to contextualise and critique the statutory framework.

The research employs an interpretive approach to examine how moral rights under Section 57 operate in practice, particularly in relation to the film and music industries. Jurisprudential theories—namely Salmond’s classification of rights, Hegel’s personality theory, and Benthamite utilitarianism—are applied as analytical tools to assess the normative foundations of the conflict. The study also incorporates a sector-specific analysis of industry practices and digital platforms to illustrate the real-world implications of legal doctrine.

STATUTORY FRAMEWORK AND STRUCTURAL IMBALANCE

On paper, the Copyright Act, 1957 appears to strike an equitable balance between moral and commercial interests. Sections 14 to 19 comprehensively define economic rights, while Section 57 preserves the author’s moral claims. Yet this apparent symmetry breaks down when the statutory framework is applied to collaborative industries.

The imbalance begins with the legal definition of authorship. In cinematograph films and sound recordings, producers are typically described as authors, despite the involvement of other creatives such as film/directorial, lyric, music, and screenplay writers. This is convenient, especially for ownership rights, with a sense of security for investors, but reduces the individual creatives to a state of marginalization.

A second source of imbalance lies in contractual practices. Although moral rights are formally non-transferable, industry contracts routinely contain broad clauses that discourage authors from asserting them. Power asymmetry ensures that such provisions operate effectively, even if their legal validity is questionable. Young and emerging creators are rarely in a position to resist these terms.

The 2012 Copyright Amendment sought to correct some of these inequities by guaranteeing continuing royalties to authors of literary and musical works used in films. In theory, this reform strengthened both economic participation and recognition. In practice, however, its impact has been diluted through contractual workarounds and weak enforcement, particularly in regional industries.

These statutory and contractual dynamics reveal a system that acknowledges moral rights symbolically while structurally privileging commercial stakeholders.

FINDINGS AND DISCUSSION: INDUSTRY PRACTICES, DIGITAL

EXPLOITATION, AND STRUCTURAL IMBALANCE

The analysis undertaken in this paper reveals a set of interrelated findings that together demonstrate the structural fragility of moral rights within the Indian copyright framework, particularly in the film and music industries. While moral rights are articulated with considerable normative strength in statutory provisions and judicial dicta, their practical enforcement is significantly undermined by industry structures, contractual practices, and digital modes of dissemination.

First, although moral rights are expressly protected under Section 57 of the Copyright Act, 1957, their effectiveness is diluted by statutory definitions of authorship that privilege producers over individual creative contributors. In cinematographic films and sound recordings, producers are often designated as authors for the purposes of copyright ownership, despite the creative work put in by that of directors, screenwriters, lyricists, and composers. This producer-centric model, grounded in utilitarian considerations of investment protection and ownership clarity, structurally marginalises creators and weakens their ability to meaningfully assert moral claims. As a result, moral rights exist mostly on paper, while the creators most affected by changes to their work or being wrongly credited lack the power and visibility to enforce them.

Second, contractual practices within the film and music industries routinely erode both the right of attribution and the right of integrity. Despite the non-transferability of moral rights under Indian law, contracts drafted by producers and music labels frequently contain clauses that discourage or prevent creators from exercising these rights. Young and emerging artists, eager for entry into highly competitive industries, often accept one-time payments in exchange for broad assignments of rights and minimal credit guarantees. These arrangements reflect systemic power asymmetries rather than genuine contractual freedom. While such agreements may not legally extinguish moral rights, they operate as functional waivers, rendering those rights largely ineffective in practice.

Third, the findings highlights that there is only limited success of the 2012 Copyright Amendment in achieving its stated objectives. Although the amendment sought to ensure ongoing royalties for authors of literary and musical works incorporated into films, its impact has been uneven and often symbolic. Producers have frequently circumvented its intent by classifying creators as service providers, structuring blanket assignments, or relying on weak

enforcement mechanisms. Without proper institutional support and affordable ways to settle disputes, the amendment has done little to shift power from commercial players to creators.

Fourth, industry practices such as remixing, reboots, and adaptations vividly illustrate how commercial imperatives directly conflict with moral rights, particularly the right of integrity. In contemporary film and music production, older works are routinely reworked to align with current market trends, often without consultation or acknowledgment of the original creators. Beyond questions of credit, such changes can fundamentally alter the tone, meaning, or artistic essence of the original work. From the perspective of Section 57, these changes raise serious concerns about wrong changes and harm to the author's honour. However, enforcement remains rare because producers hold greater commercial power and such practices have become normal in the industry.

The digital ecosystem has further weakened moral rights. Streaming platforms and social media services have greatly expanded the reach of creative works, but they have also created new forms of authorial invisibility. The information attached to songs and audiovisual works is often incomplete or only partly shown. While singers, actors, and production houses receive prominent visibility, lyricists, composers, and screenwriters are often omitted from user-facing credits. Algorithm-driven recommendation systems prioritise popularity, engagement metrics, and commercial partnerships rather than authorship recognition. As a result, attribution rights—though formally preserved—are hollowed out in practice, as authors remain invisible to audiences in the very spaces where their works circulate most widely.

Enforcement challenges are further compounded by the digital environment. The sheer volume and velocity of derivative content—covers, mashups, memes, and remixes—make it practically impossible for individual creators to monitor distortions or omissions. Safe-harbour regimes shield online platforms from proactive liability, placing the burden of enforcement squarely on authors, who often lack the resources to pursue takedowns or litigation. Cross-border dissemination adds another layer of complexity, as moral rights protections vary significantly across jurisdictions, limiting effective remedies for Indian creators whose works are exploited globally.

Taken together, these findings show that moral rights protection in India is largely symbolic, while commercial rights dominate in practice. The law recognises the dignity and personality of authors, but institutional practices, contract norms, and digital systems consistently prioritise

commercial efficiency and market reach over proper creative recognition. As a result, moral rights exist mainly as abstract entitlements and do not function as effective protections of authorship and integrity.

The ongoing conflict between moral and commercial rights calls for a comprehensive reform strategy that touches on various legal, institutional, industrial, and digital aspects. Firstly, there is a need of clear statutory definitions for terms like “distortion,” “mutilation,” and “prejudice to honour or reputation.” By doing this, there can be a more consistent understanding of these concepts which makes it easier to enforce moral rights. Instead of requiring proof of actual reputational damage, it would be more beneficial if the dignitary harm is recognised. This approach would align judicial interpretation with the core philosophical ideas behind moral rights. Secondly, implementing standardized fair contracts within the film and music industries could significantly level the playing field. By collaborating with industry bodies and regulators, we could set minimum standards for vital areas such as proper credit, royalty distribution, and necessary consultations before major changes are made. This standardization not only bring in fairness but also allows for commercial flexibility and minimize the exploitation. Thirdly, we need stronger collective management organizations that empower authors to effectively monitor their work, enforce their rights, and negotiate from a united front. Effective collecting societies play a crucial role in bridging the gap between formal legal rights and real-world enforcement, especially in the digital landscape where challenges are ever-evolving. Fourthly, digital platforms must take on more responsibility in safeguarding moral rights. For instance, fully displaying metadata—which includes information about lyricists, composers, and screenwriters—would enhance visibility and reinforce attribution rights. Additionally, these platforms should move beyond simply responding to takedown requests; they need to actively preserve and showcase authorship information. Lastly, it's vital to increase legal awareness among creators and foster a greater judicial sensitivity to dignity-based claims. Moral rights ought to be viewed not as mere barriers to commerce but as essential elements of a fair and sustainable copyright system. By embracing this perspective, we can work towards a more just landscape for all creators.

CONCLUSION

The conflict between moral and commercial rights in Indian copyright law is inherent rather than accidental. Moral rights safeguard an author’s dignity, identity, and creative autonomy, while commercial rights support investment and expansion of work. Even though Indian law

acknowledges both commercial and moral rights, industrial practice keeps commercial certainty above proper recognition of authors. Theoretical views from Salmond, Hegel, and Bentham help explain why this tension continues, but they also point to the need for a more balanced approach. By strengthening moral rights without harming legitimate commercial interests, India can support creative industries that are both profitable and fair.