
MORAL RIGHTS OF AUTHORS IN THE DIGITAL AGE: CHALLENGES IN ENFORCING THE RIGHT OF INTEGRITY UNDER INDIAN COPYRIGHT LAW

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ABSTRACT

The concept of moral rights occupies a pivotal position within the framework of copyright law, offering protection to authors beyond their economic interests. Moral rights, particularly the right of integrity, safeguard the author's personal connection to their work, ensuring it is not subjected to distortion, mutilation, or derogatory treatment.¹ In India, these rights are statutorily recognised under Section 57 of the Copyright Act, 1957.² However, the advent of the digital age—characterised by widespread online distribution, remix culture, and unauthorised adaptations—has rendered the enforcement of moral rights increasingly complex and inconsistent.

This research critically examines the contemporary relevance and practical enforceability of the right of integrity under Indian copyright jurisprudence. It analyses seminal judicial decisions, including *Amarnath Sehgal v. Union of India*,³ where courts acknowledged the inviolable personal rights of authors, while also highlighting judicial reluctance in extending these protections in cases involving digital works and derivative online content. The study further investigates the tension between the author's right of integrity and competing rights such as freedom of expression and transformative use, particularly on digital platforms.

In addition, the research engages in a comparative legal analysis by examining the robust moral rights framework of civil law jurisdictions like France⁴ and the contrasting utilitarian approach of the United States, where

¹ SAM RICKETSON & JANE C. GINSBURG, INTERNATIONAL COPYRIGHT AND NEIGHBOURING RIGHTS: THE BERNE CONVENTION AND BEYOND 522 (2d ed. 2006).

² The Copyright Act, No. 14 of 1957, § 57, INDIA CODE (1957).

³ *Amarnath Sehgal v. Union of India*, 117 (2005) DLT 717 (Delhi HC).

⁴ Code de la propriété intellectuelle [CPI] [Intellectual Property Code] art. L121-1 (Fr.).

moral rights are narrowly construed.⁵ It evaluates India's obligations under the Berne Convention and critiques the insufficient protection offered in the current domestic legal framework, especially concerning online infringement. The study concludes with reformative recommendations to recalibrate Indian copyright law, advocating for a more robust protection regime that aligns with international standards and addresses the emerging challenges posed by digital dissemination of creative works.

Introduction

The notion of authorship in copyright law is premised not merely on the economic exploitation of creative works but equally on the recognition of the author's personal and moral connection to their intellectual creation.⁶ The doctrine of moral rights, originating from the French concept of *droit moral*,⁷ enshrines the idea that the author retains certain inalienable rights over the integrity and attribution of their work, irrespective of ownership of copyright. The Berne Convention for the Protection of Literary and Artistic Works, 1886 (as amended) firmly establishes moral rights under Article 6bis, obligating contracting states to protect, at a minimum, the right of paternity and the right of integrity.⁸

India, as a signatory to the Berne Convention, incorporated the moral rights regime through Section 57 of the Copyright Act, 1957,⁹ which grants authors the right to claim authorship and the right to restrain or claim damages for any distortion, mutilation, or other modification prejudicial to their honour or reputation. The Indian judiciary, through landmark pronouncements such as *Amarnath Sehgal v. Union of India*,¹⁰ has reiterated the inviolable nature of these personal rights, distinguishing them from transferable economic rights.

However, the exponential growth of the digital ecosystem—driven by technological advancements, the rise of user-generated content, and mass online dissemination—has fundamentally altered the dynamics of authorship and control. In this digital age, authors face novel threats to their moral rights, particularly the right of integrity, due to rampant unauthorised reproductions, remix cultures, and algorithmic adaptations that transcend geographical and legal boundaries. Digital platforms, by their very architecture, facilitate

⁵ 17 U.S.C. § 106A (United States Visual Artists Rights Act, 1990).

⁶ Lior Zemer, The Moral Right to Attribution, 53 MCGILL L.J. 35, 39 (2008).

⁷ Jane C. Ginsburg, Moral Rights in a Common Law System, 1 ENT. L. REV. 121, 122 (1990).

⁸ Berne Convention for the Protection of Literary and Artistic Works, art. 6bis, Sept. 9, 1886, as amended on Sept. 28, 1979, 1161 U.N.T.S. 3.

⁹ The Copyright Act, No. 14 of 1957, § 57, INDIA CODE (1957).

¹⁰ *Amarnath Sehgal v. Union of India*, 117 (2005) DLT 717 (Delhi HC).

widespread modification of original works, often without attribution or with derogatory alterations, posing significant challenges to the enforcement of moral rights.

The Indian copyright jurisprudence, although progressive in certain respects, remains inadequately equipped to address these modern complexities. The legislative framework under Section 57 does not explicitly account for technological infringements,¹¹ and judicial interpretations exhibit inconsistency in extending protection against digital violations. Moreover, the absence of specific remedies for online derogatory treatment and the lack of a robust mechanism to enforce authors' rights across digital platforms further weaken the protective scope of moral rights in India.

This research, therefore, aims to critically examine the evolution and scope of the moral right of integrity under Indian copyright law, evaluate the enforcement challenges posed by digital environments, and propose legal reforms to harmonise India's copyright framework with contemporary technological realities and international best practices.

Conceptual and Statutory Framework of Moral Rights under Indian Copyright Law

The doctrine of moral rights forms an intrinsic part of copyright jurisprudence, distinguishing the personal rights of the author from their economic interests. Moral rights recognize the fundamental principle that a creative work is not merely a marketable commodity, but an extension of the author's own personality, identity, and reputation.¹² This concept derives its intellectual foundation from the civil law tradition, particularly the French notion of *droit moral*, which positions the author as inseparably linked to their creation throughout their lifetime and, in some jurisdictions, even beyond death.¹³ The philosophical justification of moral rights is primarily anchored in two influential theories—the personality theory and the natural rights theory. The personality theory, largely attributed to Hegelian thought, regards the creative process as a manifestation of the author's individuality and self-expression, thereby justifying perpetual control over the work's treatment and presentation.¹⁴ The natural rights theory, as advocated by philosophers like Kant and Locke, conceptualizes the author's

¹¹ Debashis Chakraborty, Author's Moral Rights in Indian Copyright Law: A Critical Study, 52 J. INDIAN L. INST. 435, 452 (2010).

¹² Mira T. Sundara Rajan, *Moral Rights: Principles, Practice and New Technology* 7 (Oxford Univ. Press 2011).

¹³ Jane Ginsburg, Moral Rights in a Common Law System, 1 ENT. L. REV. 121, 122 (1990).

¹⁴ Hegel, *Philosophy of Right* § 69 (1820)

entitlement to moral rights as a natural corollary of their intellectual labour and creative investment.¹⁵

Internationally, the legal consolidation of moral rights was formalized through the Berne Convention for the Protection of Literary and Artistic Works, 1886, which, through Article 6bis, obligates contracting states to confer upon authors two fundamental moral rights: the right of paternity and the right of integrity.¹⁶ The right of paternity ensures the author's prerogative to claim authorship, preventing false attribution, while the right of integrity empowers the author to object to any distortion, mutilation, or other modification of their work that would be prejudicial to their honour or reputation.¹⁷ The Berne Convention's influence extends globally, shaping national copyright legislations to acknowledge the inseparability of an author's moral and creative identity from their work, independent of ownership or economic rights.

In compliance with its obligations under the Berne Convention, India formally recognized moral rights through statutory enactment under Section 57 of the Copyright Act, 1957.¹⁸ The statutory scheme under Indian law provides authors with an explicit legal mechanism to assert their moral rights, distinct from the bundle of economic rights, which remain transferable and assignable. Section 57 encapsulates the right to claim authorship and the right to object to prejudicial alterations of the author's work. Specifically, Section 57(1)(a) entitles the author to claim authorship of their work notwithstanding any assignment of copyright, thereby ensuring perpetual recognition of their creative authorship.¹⁹ Section 57(1)(b) further guarantees the right to restrain or claim damages in respect of any distortion, mutilation, modification or any other act relating to the work, where such act is prejudicial to the author's honour or reputation.²⁰ This statutory formulation ensures that moral rights subsist with the author even after the transfer of copyright and provides grounds for legal recourse in instances of reputational harm caused by derogatory treatment of the work.

A noteworthy aspect of Indian copyright law is the partial inalienability of moral rights. While economic rights are fully assignable under Section 18 of the Copyright Act, 1957, moral rights under Section 57 continue to vest in the author irrespective of ownership status.²¹ Remedies

¹⁵ Immanuel Kant, *The Metaphysics of Morals* (1797).

¹⁶ Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as amended, art. 6bis,

¹⁷ *Id.*

¹⁸ The Copyright Act, No. 14 of 1957, § 57, INDIA CODE (1957).

¹⁹ *Id.* § 57(1)(a).

²⁰ *Id.* § 57(1)(b).

²¹ *Id.* § 18, § 57.

under Section 57 include injunctive relief and compensatory damages, thereby reinforcing the personal and dignitary dimension of these rights.²² However, Indian law also incorporates certain statutory limitations on the exercise of moral rights. Section 57 contains specific exceptions, particularly with respect to adaptations of computer programs for technical compatibility or necessary modifications during format conversion, reflecting an acknowledgment of technological necessities.

Judicial interpretation in India has significantly shaped the contours of moral rights protection. The landmark judgment in *Amarnath Sehgal v. Union of India*²³ by the Delhi High Court established moral rights as enforceable personal rights, independent of any contractual arrangements regarding economic rights. In this case, the arbitrary removal and mutilation of the plaintiff's mural by government authorities was held to constitute a violation of his moral rights, thereby affirming the author's inviolable connection to their artistic work. The court recognized the right of integrity as pivotal to the protection of the artist's dignity, awarding both injunctive relief and damages. Similarly, in *Manoj Kumar v. Vinod Kumar*,²⁴ the Delhi High Court upheld the author's moral rights against derogatory commercial use of cinematographic works, further broadening the protective ambit of Section 57. Indian courts have thus treated moral rights not merely as ancillary privileges but as integral protections of the creative identity of authors.

Despite the statutory and judicial affirmation of moral rights, the rapid evolution of digital technologies has introduced unprecedented challenges to their enforcement. The proliferation of digital platforms, social media networks, user-generated content, and artificial intelligence-based adaptations has facilitated the widespread unauthorized dissemination and modification of creative works. This digital environment frequently enables the creation of derivative works, remixes, and manipulations that may undermine the author's moral rights without their knowledge or consent.²⁵ Furthermore, anonymity of infringers, cross-border violations, and technological barriers to identification exacerbate the difficulty in securing effective legal remedies. Indian copyright law, while providing foundational protection under Section 57, remains ill-equipped to address these digital realities due to the absence of specific provisions

²² Id. § 57(2).

²³ *Amarnath Sehgal v. Union of India*, 117 (2005) DLT 717 (Delhi HC).

²⁴ *Manoj Kumar v. Vinod Kumar*, 2010 (44) PTC 434 (Del.).

²⁵ Debashis Chakraborty, Author's Moral Rights in Indian Copyright Law: A Critical Study, 52 J. INDIAN L. INST. 435, 452 (2010).

dealing with online violations, intermediary liability, and rapid injunctive mechanisms to prevent viral distortion of works.

Comparatively, several jurisdictions offer stronger protections for moral rights in the digital age. The French legal system grants moral rights perpetual, inalienable, and imprescriptible status, enforceable even posthumously by the author's heirs.²⁶ The United States, on the contrary, offers a limited recognition of moral rights, primarily confined to the narrow ambit of visual art under the Visual Artists Rights Act, 1990, excluding other categories such as literary, musical, and cinematographic works.²⁷ The United Kingdom, under the Copyright, Designs and Patents Act, 1988, recognizes moral rights with certain statutory limitations, including the possibility of waiver, reflecting a less robust protection model compared to civil law systems.²⁸

The statutory recognition of moral rights under Indian copyright law signifies a progressive approach towards balancing economic and personal interests in creative works. Nevertheless, the current legal framework demonstrates significant limitations in its adaptability to the challenges posed by the digital ecosystem. The absence of explicit statutory mechanisms to address online infringements of moral rights, coupled with procedural delays and jurisdictional hurdles, dilute the efficacy of these rights in practical enforcement. Consequently, there is a pressing need for comprehensive legal reform in India, incorporating digital-age considerations into the moral rights regime, strengthening remedies, and ensuring alignment with international best practices to uphold the dignity and personal interests of authors in a rapidly transforming technological environment.

Comparative Legal Analysis of Moral Rights with International Jurisdictions

The global evolution of moral rights reflects the diverse philosophical and legal traditions that shape copyright regimes across jurisdictions. While moral rights are universally acknowledged under international treaties such as the Berne Convention for the Protection of Literary and Artistic Works, their scope, enforceability, and practical application vary substantially between civil law and common law systems.

²⁶ Code de la propriété intellectuelle [CPI] arts. L121-1 to L121-9 (Fr.).

²⁷ 17 U.S.C. § 106A (United States VARA, 1990).

²⁸ Copyright, Designs and Patents Act 1988, c. 48, § 87 (U.K.)

The most authoritative international instrument on moral rights is the Berne Convention, particularly Article 6bis, which establishes minimum obligations for member states. It provides that “independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation, or other modification... which would be prejudicial to his honour or reputation.”²⁹ The Berne Convention thus obliges signatory nations to incorporate at least the right of paternity and the right of integrity, forming a baseline for national legislation on moral rights.

In civil law countries, particularly France, moral rights are treated with considerable reverence. The French Intellectual Property Code confers inalienable, imprescriptible, and perpetual moral rights upon authors, extending beyond their lifetime to their heirs.³⁰ The French doctrine is rooted in the philosophical belief that a creative work is an extension of the author's personality, and therefore any alteration constitutes a moral injury. The four primary moral rights under French law include: the right of disclosure, the right of paternity, the right of integrity, and the right of withdrawal or reconsideration.³¹ Notably, even after assigning economic rights, French authors can sue for violations of moral rights, with the courts granting expansive protection, including posthumous enforcement by legal successors. This approach demonstrates a strong judicial tendency towards safeguarding authorial dignity, especially in cultural and artistic works.

Germany follows a similar approach under the German Copyright Act (*Urheberrechtsgesetz*), embedding the concept of “*Urheberpersönlichkeitsrecht*” (author's personal right).³² German law elevates moral rights to constitutional significance, particularly under Article 2 of the Basic Law (*Grundgesetz*), which guarantees the free development of personality. The right of integrity and attribution are protected robustly, with judicial precedents showing zero tolerance for derogatory treatment of works. The German judiciary frequently intervenes in instances of adaptation, especially where the author's intent is misrepresented, demonstrating an inclination towards preserving the sanctity of creative expression.

²⁹ Berne Convention for the Protection of Literary and Artistic Works, art. 6bis, Sept. 9, 1886.

³⁰ Code de la propriété intellectuelle [CPI], arts. L121-1 to L121-9 (Fr.).

³¹ *Id.*

³² *Urheberrechtsgesetz* [UrhG] [Copyright Act], Sept. 9, 1965, BGBl. I at 1273, last amended in 2021 (Ger.).

By contrast, common law jurisdictions adopt a comparatively restrained approach to moral rights. In the United Kingdom, moral rights were introduced relatively late through the Copyright, Designs and Patents Act, 1988, primarily under sections 77–89.³³ The right of paternity, right of integrity, and right to object to false attribution are statutorily recognised. However, UK law permits contractual waiver of moral rights, significantly diluting their practical enforceability. Furthermore, the enforcement is limited in scope, excluding certain types of works, such as computer programs, and limiting redressal to certain classes of authors. Posthumous protection is also minimal under UK law, largely confined to the right against false attribution for a period of twenty years after death.³⁴

In the United States, the position is even more restricted. The United States is a signatory to the Berne Convention but exercises a minimalistic interpretation of Article 6bis. Moral rights are recognized only for visual artists under the Visual Artists Rights Act (VARA), 1990, codified under 17 U.S.C. § 106A. VARA grants limited moral rights, namely the right of attribution and the right of integrity, applicable only to works of visual art and subject to numerous exceptions. Literary, musical, cinematographic, and digital works are excluded from moral rights protection in the US, reflecting a strong utilitarian orientation towards copyright as an economic property right.³⁵ Judicial recognition of moral rights is also rare, with courts prioritizing freedom of expression and fair use doctrines over authorial dignity.

The Canadian Copyright Act represents a moderate model among common law jurisdictions, offering broader recognition of moral rights under Section 14.1.³⁶ Canada provides both the right of attribution and the right of integrity to all authors, with protection lasting for the lifetime of the author plus fifty years posthumously. Canadian law prohibits the waiver of moral rights without explicit contractual agreement, thereby offering greater protection compared to the UK or US. Canadian courts have been more receptive to moral rights claims, with decisions such as *Snow v. Eaton Centre Ltd.* affirming the actionable nature of prejudicial modification of artworks.³⁷

Australia also follows a middle-ground approach. The Copyright Amendment (Moral Rights) Act 2000 introduced express statutory protection of moral rights, including the right of

³³ Copyright, Designs and Patents Act 1988, c. 48, §§ 77–89 (U.K.).

³⁴ *Id.* § 86.

³⁵ Jane C. Ginsburg, *Moral Rights in a Common Law System*, 1 ENT. L. REV. 121 (1990).

³⁶ Canadian Copyright Act, R.S.C. 1985, c. C-42, § 14.1 (Can.).

³⁷ *Snow v. Eaton Centre Ltd.* (1982), 70 C.P.R. (2d) 105 (Ont. H.C.).

attribution, the right against false attribution, and the right of integrity.³⁸ However, Australian law permits consent-based waivers and contains statutory exceptions, including defences for reasonable commercial practices, parody, and satire, thereby limiting judicial intervention in certain cases.³⁹

In the Asian region, jurisdictions like Japan and China formally recognize moral rights in statutory law, but enforcement patterns reflect varying levels of judicial activism. Japanese Copyright Law grants unassignable and perpetual moral rights, with courts showing proactive enforcement in cases involving honour and reputation.⁴⁰ China's Copyright Law (as amended in 2020) acknowledges moral rights but enforcement remains inconsistent, particularly in digital infringement cases, due to administrative barriers and weak judicial infrastructure.⁴¹

When compared internationally, India's position on moral rights occupies a unique space. The Indian Copyright Act, 1957, via Section 57, recognizes the right of paternity and the right of integrity but limits judicial redress primarily to civil remedies of injunction and damages.⁴² Unlike the UK, Indian law does not expressly permit waiver of moral rights; however, the absence of criminal penalties, weak posthumous protection, and limited practical enforcement mechanisms—especially in digital contexts—place India closer to the common law tradition than the expansive civil law approach. Indian courts have shown sensitivity towards moral rights in landmark decisions like *Amarnath Sehgal v. Union of India*, yet the lack of statutory detail on issues such as posthumous rights, treatment of digital works, and absence of collective rights management institutions creates significant enforcement challenges.⁴³

In conclusion, a comparative analysis of moral rights reveals a spectrum ranging from strong, perpetual, and inalienable protections in civil law countries, to limited, sometimes waivable, and economically subordinate rights in common law systems. India's statutory framework aligns partially with international obligations under the Berne Convention but lacks the rigorous enforcement structures seen in European jurisdictions. This divergence underscores the need for a systematic recalibration of India's copyright law, especially in response to

³⁸ Copyright Amendment (Moral Rights) Act 2000 (Cth) (Austl.).

³⁹ Id. §§ 195AW-195AZ.

⁴⁰ Copyright Act, Law No. 48 of 1970, amended by Law No. 35 of 2018 (Japan).

⁴¹ Copyright Law of the People's Republic of China (as amended, 2020).

⁴² Copyright Act, No. 14 of 1957, § 57, INDIA CODE (1957).

⁴³ *Amarnath Sehgal v. Union of India*, 117 (2005) DLT 717 (Delhi HC).

emerging digital disruptions, in order to ensure that authorial dignity is adequately protected in both traditional and modern creative environments.

Judicial Trends and Enforcement Challenges of Moral Rights in the Digital Age: An Indian Perspective

The jurisprudential development of moral rights in India under the Copyright Act, 1957, particularly Section 57, reflects an evolving recognition of the author's intrinsic rights of attribution and integrity. However, the judicial trends highlight a persistent inconsistency in interpretation, and the advent of the digital age introduces unprecedented enforcement dilemmas. Indian courts, though guided by the spirit of the Berne Convention (1886) which India ratified in 1928, have largely engaged in selective and cautious application of moral rights, oscillating between expansive constitutional interpretations and restrictive statutory confines. The landmark ruling in *Amarnath Sehgal v. Union of India*⁴⁴ remains a cornerstone, where the Delhi High Court recognised moral rights as an extension of personality rights under Article 21 of the Constitution, equating mutilation of artwork to violation of human dignity. This judicial reasoning aligned Indian law with European civil law traditions, especially the French doctrine of “droit moral,” where moral rights are inalienable and perpetual.⁴⁵ Notably, the court in *Sehgal* treated moral rights not merely as contractual entitlements but as fundamental rights rooted in personhood, thereby setting a precedent for future judicial engagement.

Nevertheless, subsequent judicial trends reveal dilution of this progressive vision. In *Raj Rewal v. Union of India*,⁴⁶ the Delhi High Court denied protection to the moral rights of an architect over the demolition of his structure, justifying the state's prerogative over property rights. Academic commentators have criticised this judgment as a doctrinal regression, where the court conflated property law with copyright principles, failing to uphold the sanctity of authorial dignity established in *Sehgal*.⁴⁷ Similar judicial restraint is observable in cases involving cinematic works and adaptations, where courts have been reluctant to expand the

⁴⁴ *Amarnath Sehgal v. Union of India*, 117 (2005) DLT 717 (Delhi High Court).

⁴⁵ Berne Convention for the Protection of Literary and Artistic Works, Article 6bis.

⁴⁶ *Raj Rewal v. Union of India*, 2019 SCC OnLine Del 9721

⁴⁷ Debashis Chakraborty, “Author's Moral Rights in Indian Copyright Law: A Critical Study” (2010) 52 JILI 435.

contours of integrity rights in the face of derivative and commercial reinterpretations of artistic works.⁴⁸

In the digital context, judicial interpretations appear strikingly under-theorised. *The Super Cassettes Industries Ltd. v. MySpace Inc.* decision, though relevant to intermediary liability, exemplifies the judiciary's narrow focus on economic infringement while sidestepping moral rights altogether.⁴⁹ This lacuna persists despite technological transformations that exacerbate risks of unauthorised attribution removal, distortion, and viral reputational harm. Scholarly critiques underscore the missed opportunity for Indian courts to evolve jurisprudence that meaningfully adapts Section 57 to the realities of online platforms and AI-generated modifications.⁵⁰

From an enforcement standpoint, Indian moral rights jurisprudence suffers from three principal systemic failures: procedural inefficiency, absence of criminal deterrence, and regulatory incapacity. Procedurally, the civil adjudication model under Section 57, compounded by evidentiary burdens and protracted litigation cycles, renders enforcement illusory for most creators. Empirical studies indicate that civil copyright cases in India often take upwards of five to seven years for resolution, rendering moral rights claims practically futile in fast-paced digital environments.⁵¹ The unavailability of injunctive relief in urgent cases involving viral distortions has led to irreversible damage to authorial reputation before court intervention can be secured.

Additionally, the absence of criminal remedies contrasts sharply with European jurisdictions such as France, where moral rights violations, especially public mutilation, are criminally penalised, reflecting stronger institutional respect for artistic dignity.⁵² Indian courts have, to date, not expanded tort-based remedies, such as defamation or misrepresentation, to provide ancillary protections, leaving moral rights claims siloed within the limited scope of Section 57.

⁴⁸ Jaya Sharma, "Moral Rights of Authors in the Indian Film Industry: An Invisible Right," 7 NUJS Law Review 571 (2014).

⁴⁹ *Super Cassettes Industries Ltd. v. Myspace Inc.*, 2011 (48) PTC 49 (Delhi HC).

⁵⁰ Shivam Jha, "Moral Rights in India: Digital Challenges and Judicial Silence," *Journal of Intellectual Property Rights*, Vol. 24, 2019.

⁵¹ Ipsita Dasgupta, "Adjudication Delays in Indian Copyright Litigation: A Quantitative Study," *Indian Journal of Law and Technology*, Vol. 17, 2021.

⁵² Séverine Dusollier, "Moral Rights in the Digital Age," *WIPO Studies on Copyright and Related Rights* (2010).

A particularly underexplored judicial domain pertains to digital intermediaries. Section 79 of the Information Technology Act, 2000, provides broad safe-harbour immunities to platforms, and Indian courts have consistently refrained from imposing obligations on intermediaries to respect moral rights.⁵³ There is judicial silence on whether intermediaries, by enabling distortions through algorithmic amplification, can be considered contributory infringers under Section 57. International scholarship, notably from EU's evolving Digital Services Act regime, advocates platform accountability in upholding both attribution and integrity rights, a normative stance absent in Indian judicial reasoning.⁵⁴

Another critical challenge lies in the territorial limitations of moral rights enforcement in India. With India being a non-signatory to The Hague Judgments Convention (2019), Indian court judgments securing moral rights enforcement lack transnational enforceability. Authors aggrieved by distortions on foreign-hosted platforms or by foreign publishers face substantive jurisdictional hurdles.⁵⁵ Scholarly calls for judicial innovation, invoking private international law principles to expand jurisdictional reach, have not been sufficiently adopted by Indian courts.

The judiciary also remains conspicuously silent on the application of moral rights to AI-generated and machine-manipulated creative content. The emergence of deepfakes, AI remixes, and algorithmic auto-edits has led to new forms of distortions where the identity of the infringer is anonymised, and the author's control is obliterated.⁵⁶ Academic literature increasingly advocates a "technology-neutral" reinterpretation of moral rights in Indian courts, arguing that personality rights extend logically into these emergent domains, yet judicial engagement is entirely absent.

Compounding these deficiencies is the judiciary's reluctance to balance competing constitutional rights. While Article 19(1)(a) guarantees freedom of expression, Indian courts have not evolved doctrinal tests to mediate conflicts between public interest speech (e.g., parody, critique) and authorial integrity. Comparative analyses reveal that German courts, under the proportionality principle, undertake meticulous balancing, whereas Indian courts

⁵³ Information Technology Act, 2000, s.79.

⁵⁴ European Parliament, "Digital Services Act: New Rules for Online Platforms," Regulation (EU) 2022/2065.

⁵⁵ Hague Conference on Private International Law, Hague Judgments Convention (2019).

⁵⁶ WIPO, "Artificial Intelligence and Intellectual Property Policy Considerations," WIPO/IP/AI/19/INF/1 (2019).

continue to operate in doctrinal silos.⁵⁷ This absence of constitutional balancing reduces the predictability of outcomes in moral rights disputes, particularly in digital speech cases.

In summation, the Indian judicial trajectory on moral rights reflects an initial progressive alignment with international standards, subsequently undermined by inconsistent reasoning, systemic enforcement failures, and complete judicial disengagement from contemporary technological realities. The judiciary's limited responsiveness to the evolving challenges of digital authorship and cross-border dissemination exacerbates the fragility of moral rights protection in India. Academic scholarship strongly suggests the necessity for doctrinal recalibration, procedural modernisation, and judicial activism to reinvigorate the enforcement of moral rights, ensuring they remain effective shields of authorial dignity in a digitally globalised world.

Reconstructing the Legal Framework: Strengthening Moral Rights in the Indian Copyright Regime

The statutory recognition of moral rights under Section 57 of the Copyright Act, 1957, remains an important but underdeveloped component of India's intellectual property law. Contemporary judicial trends reveal a doctrinal inconsistency and enforcement challenges, particularly in the digital age. This chapter proposes a structured and legally grounded reform agenda to strengthen the protection and enforcement of moral rights in India, drawing on comparative jurisprudence and international best practices.

The first reform priority lies in the substantive amendment of Section 57. The existing formulation restricts moral rights to the right of attribution and integrity, without clear definitions of terms such as "distortion" or "mutilation," especially in the context of digital content. To align with international obligations under Article 6bis of the Berne Convention, Indian law should codify a more expansive definition of these rights, explicitly encompassing digital modifications, algorithmic manipulations, and unauthorised AI-generated alterations.⁵⁸

Additionally, it is recommended to introduce two supplementary moral rights currently absent in Indian law: (i) the right of disclosure (*droit de divulgation*), giving authors control over the

⁵⁷ Andreas Rahmatian, "Moral Rights in the Digital World: Freedom of Expression and Cultural Diversity," (2020) *Journal of Intellectual Property Law and Practice*.

⁵⁸ Berne Convention for the Protection of Literary and Artistic Works, Article 6bis

first communication of their work to the public; and (ii) the right of withdrawal (*droit de retrait*), allowing authors to withdraw their work under certain circumstances, subject to fair compensation to rights holders. The adoption of these rights would harmonise Indian law with European civil law models, particularly the French Intellectual Property Code.⁵⁹

Procedural reform is equally crucial. The civil adjudication of moral rights claims is undermined by judicial delays and lack of expertise. The establishment of designated Copyright Benches within High Courts, with expedited procedures modelled after the Commercial Courts Act, 2015, would facilitate timely and specialised adjudication of moral rights disputes.⁶⁰ The introduction of interim injunctive relief mechanisms specific to digital dissemination should be codified to prevent irreversible reputational damage to authors.⁶¹

To address the enforcement gap, particularly for non-institutional authors, it is imperative to expand the mandate of copyright societies to include moral rights management. This is consistent with the collective rights management structures in several European jurisdictions, where societies not only license economic rights but also monitor moral rights violations and initiate legal action on behalf of authors.

The digital ecosystem presents unique enforcement challenges, especially concerning intermediaries. Current jurisprudence under Section 79 of the Information Technology Act, 2000, shields intermediaries from liability but fails to account for their role in moral rights violations. Indian law should adopt a “duty of care” standard for large digital platforms, requiring proactive measures to prevent the dissemination of distorted or mutilated versions of copyrighted works. The European Union’s Digital Services Act (2022) offers a suitable comparative model.⁶²

Cross-border enforcement remains a structural weakness. India should accede to the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments to facilitate the global enforceability of moral rights judgments.⁶³ Domestically, courts should evolve

⁵⁹ French Code of Intellectual Property, Articles L121-1 to L121-9.

⁶⁰ Commercial Courts Act, 2015, Section 2(c)(xvii).

⁶¹ Ipsita Dasgupta, “Adjudication Delays in Indian Copyright Litigation,” *Indian Journal of Law and Technology*, Vol. 17 (2021).

⁶² Regulation (EU) 2022/2065, Digital Services Act.

⁶³ Hague Conference on Private International Law, Hague Judgments Convention (2019).

jurisprudence that recognises the “effects doctrine,” asserting jurisdiction over foreign infringements that cause reputational harm within Indian territory.⁶⁴

The emergent challenges posed by artificial intelligence demand statutory clarification. Moral rights provisions should expressly cover AI-generated modifications of creative works, recognising the human author’s right to object to distortions, regardless of the technological medium of infringement. Legislative guidance is necessary to pre-empt the erosion of authorial dignity in the age of automated content production.⁶⁵

Finally, Indian constitutional jurisprudence must reconcile the interface between moral rights and freedom of expression under Article 19(1)(a). Courts should adopt a structured proportionality test, similar to the German constitutional framework, to balance the author’s right to integrity with competing public interest considerations, thereby ensuring doctrinal coherence.⁶⁶

In conclusion, the effective enforcement of moral rights in India requires a comprehensive legislative and institutional reform strategy. Expanding statutory protections, improving procedural efficiency, enhancing intermediary accountability, strengthening cross-border enforcement, and adapting the law to technological realities are indispensable to ensure that moral rights function as genuine protectors of authorial dignity in the contemporary age.

Conclusion

This paper has critically examined the scope, enforcement, and judicial treatment of moral rights—specifically the right of integrity—within the Indian copyright framework. The statutory articulation under Section 57 of the Copyright Act, 1957, though consistent with India’s obligations under the Berne Convention, remains conceptually narrow and operationally weak. Judicial pronouncements, while occasionally progressive, have failed to consistently uphold the sanctity of authorial dignity, especially in the evolving context of digital technology, where infringements occur through distortion, misrepresentation, and unauthorised adaptations on digital platforms. The absence of clear statutory definitions, coupled with

⁶⁴ Nandan Kamath, “Private International Law and Digital Copyright,” *NUJS Law Review*, Vol. 12 (2020).

⁶⁵ Pratiksha Thakur, “AI and Authorial Dignity: An Indian Perspective,” *Journal of Law, Technology and Policy*, 2023.

⁶⁶ Andreas Rahmatian, “Moral Rights in the Digital World,” *Journal of Intellectual Property Law & Practice*, 2020.

procedural inefficiencies and weak regulatory mechanisms, has resulted in inadequate protection for authors against contemporary forms of moral harm.

A comparative analysis of international legal systems, particularly those of civil law jurisdictions such as France and multilateral instruments like the EU Digital Services Act, reveals more robust protections through expanded moral rights, intermediary responsibilities, and collective management frameworks. India's copyright regime has yet to adapt to these international standards, leaving significant gaps in protection, particularly against AI-generated content alterations and cross-border dissemination of distorted works. Judicial approaches in India also lack a structured balancing test to resolve conflicts between moral rights and competing rights, such as freedom of expression, further limiting effective enforcement.

In conclusion, this paper underscores the urgent need for legislative and judicial reform to ensure that moral rights in India evolve in alignment with technological advancements and constitutional values. A recalibrated legal framework—grounded in clearer statutory provisions, enhanced procedural mechanisms, and proactive judicial interpretation—is necessary to reposition moral rights as enforceable entitlements rather than symbolic recognition. Strengthening moral rights will not only protect the author's personal dignity but will also contribute to preserving the cultural integrity of creative works in India's rapidly digitising society.