COPYRIGHT CHALLENGES FOR CONTENT CREATORS AND FREELANCERS: A COMPARATIVE ANALYSIS OF INDIA, UK & US

Gangeswar G, CHRIST (Deemed to be University), Bangalore

ABSTRACT

This paper compares how India, the United Kingdom, and the United States handle copyright for freelancers and content creators, and why the promise of "authorship" so often fizzles in practice. For example, the Copyright Law in India has emphasised the producer/owner aspect of copyright law at the expense of the author/creator once a work has been included in a film. The 2012 amendment to the Copyright Act, 1957, is an attempt to support songwriter and composer authors/creators through the introduction of enforceable non-waivable royalties, but enforcement capabilities are still not very strong and many digital creators will not be able to benefit. In the UK, the CDPA 1988 has authors/creators retain initial ownership of their works and has introduced moral rights; however, it has also essentially permitted producers and owners to routinely waive moral rights, which ultimately undermines both initial ownership and moral rights. In the US, § 201(a) again acknowledges authorship but many works are created for 'work for hire' and as such ownership of the work reverts back to the person who commissioned the work; although § 203 provides authors with termination rights in principle, in practice these rights have limited use. Law and audience have become the shared domain of the platforms. For instance, YouTube's Content ID and the licensing terms on TikTok operate as private rulebooks that entail an excessive number of licenses and favour large rightsholders. And with the advent of AI, this has added to the problems; for example, creators' works are continuously taken to create training sets, often without both consent and attribution, which subsequently results in diminished value and recognition over time. The law acknowledges freelance writers as authors; however, they are frequently sidelined by contracts, platforms and technology. To remedy this is not straightforward, however one realistic direction to take is to extend rights that cannot be waived beyond legacy industries, to prevent the recruitment of exploitative terms pursuant to law and develop international standards relevant to independent creators. None of these solutions are easy to implement, yet each must be done in order for copyright to actually deliver on its promise of recognition and fair remuneration.

Keywords: Copyright, Freelancers, Content Creators, Platform Governance, Work-for-Hire.

INTRODUCTION

The digital economy has reasserted the landscape of creative 'labour' with content creators and freelancers headquartered in producing culture, exposing them to unprecedented copyright challenges. Unlike in a traditional work setting, freelancers and small-scale independent creators depend on copyright to get an economic return from their work or recognition.[1] That is an author's draft courtesy of Jane Ginsburg. They are always pushed aside in copyright debates, while huge intermediaries-publishers, platforms, and distributors- get disproportionate control and profits. That kind of imbalance raises the very question of whether, in the digital age, copyright laws do raise the interests of creators.

Recent scholarly works suggest that the technological intermediaries such as YouTube, Spotify, and Amazon mediate the creator-audience relationship in a way that alters the economics of copyright. The reduction of bargaining power of these intermediaries to severely affect copyright's incentive and rewards function meaningfully.[2] Similarly, Nayyar notes that given the characteristics of digital technology, copy and distribution occur easily: rampant infringement occurs via social media, multimedia platforms, and peer-to-peer sharing, but deterrents to infringement have proven mainly ineffective. Garon recalls attempts with legislation like SOPA and the PRO-IP Act in the United States to strengthen enforcement, only to exacerbate alienations among creators, distributors, and platforms.

In India, the Copyright Act of 1957 and its 2012 amendments introduced some limited protections, such as royalty sharing, but a creator becomes vulnerable to a contract passed against him/her. At this point, it hardly means much to say that in the UK, greater rights are recognized from the moral side, whereas a contractual override drastically dilutes that protection. Ginsburg points out that the "work-for-hire" doctrine precludes independent artists from enjoying their default ownership right in the US. This comparative perspective highlights how the striking consonances at the structural level produce distinct difficulties for their respective creators in all these countries. These include loss of control, insufficient

[1] Shubha Ghosh, *Globalization, Contracts, and Copyright: The Netflix Dilemma*, 40 Colum. J.L. & Arts 101, 108–10 (2016).
[2] Tarleton Gillespie, *Custodians of the Internet: Platforms, Content Moderation, and the Hidden Decisions That Shape social media* 45–50 (Yale Univ. Press 2018).

remuneration, and weakened bargaining standing.

This paper explores copyright challenges for content creators and freelancers through a comparative study into India, the UK, and the US, examining the synergy between law and platform governance in shaping the contexts of freelance creative work.

HISTORY AND EVOLUTION OF COPYRIGHT LAW IN INDIA

Until the present, the evolution of copyright law in the Indian subcontinent has been a process from the colonial imposition of British statutes to a framework homegrown to suit the local creative industries. One of the early copyright legislations was the Indian Copyright Act of 1847, passed through the East India Company and enacted from the British Copyright Act of 1842. This Act gives authorship rights and protection to the owners of books and other literary works. [3]However, with a limited scope, this law principally protected British publishers within India.

Following this was the enactment of the Indian Copyright Act of 1914, which made adaptations to the UK's Copyright Act of 1911, according to Indian conditions. Meanwhile, the Act considered all kinds of works, whether music or dramatic composition, for copyright protection, albeit not without its letdown.[4] By the Act, publishers and producers were given a wide variety of rights, ignoring the economic handicaps faced by the Indian writers and artists. Significantly, the Act did not foresee the growth of Indian music, film, and television in the next few decades but instead continued to follow in the British footsteps of striking a balance between private rights and the public's right to access.

After the Independence, the Copyright Act of the colonial era was considered insufficient. Then, Parliament made this Indian Copyright Act, 1957[5] and deemed it primary legislation governing copyright in India. It was also meant to conform to international conventions such as the Berne Convention for the Protection of Literary and Artistic Works. Under the Act, copyright in India was recognized for literary, dramatic, musical, and artistic works, cinematograph films, and sound recordings. Section 17 of this Act states that the authors shall

[3] The Indian Copyright Act, 1847 (No. 20 of 1847) (India).
[4] The Indian Copyright Act, 1914 (No. 3 of 1914) (India).
[5] The Copyright Act, No. 14 of 1957, India.

be the first copyright owners, except for cases concerning works made during employment.[6]

Further amendments to the Act were made considering technological changes and international obligations. The amendments made in 1983 and 1984 gave broadcasting rights and clarified ownership in film-related works. In the emergence of the digital era, the 1994 amendment addressed computer software and satellite broadcasting.[7] The 1999 Amendment brought the Indian legislation into line with the Agreement on Trade-related Aspects of Intellectual Property Rights of the World Trade Organization (TRIPS).[8]

The statutory safeguard for the authors of literary and musical works in the films and sound recordings was introduced through the Copyright (Amendment) Act, 2012.[9] It was established that the authors have the right to royalties, even after the assignment mandated under sections 19(9) and 19(10) of this Act. Additionally, the amendment updated enforcement procedures, made it easier to license cover versions, and improved the rights of disabled persons. Although viewed as the crucial achievement for Indian artists, it is viewed that enforcement is still lax amongst others, especially in the digital sphere, where international platforms control the distribution.[10]

Generally, the 1957 Act marks a turning point in copyright law in India, thereby showing a pathway from colonial imitation toward autonomous reform. Further amendments, especially those in 1999 and 2012, portray India trying to address the structural vulnerabilities of authors and freelancers and maintain international conformities to its cultural industries. Evolution notwithstanding, the law needs a continuous supply of amendments, given the persistent enforcement issues, contractual asymmetries, and platform governance.

CONCEPTUAL FRAMEWORK

The conceptual existence of research is based on the intersection of copyright law, digital content creators, and freelancers, which grants author rights to balance copyright and public use. Copyright, by definition, gives authors the sole rights to perform, distribute, reproduce, and adapt their works. In traditional circumstances, that right was reciprocally accorded

[6] Id. § 17.
[7] Copyright (Amendment) Act, 1994 (No. 38 of 1994) (India).
[8] Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.
[9] Copyright (Amendment) Act, No. 27 of 2012, §§ 19(9) – (10) (India).
[10] Pallavi Nayyar, *Digital Copyright Law: Challenges and Remedies*, 6 Int'l J.L. Mgmt. & Human. 525, 528–30 (2023).

through employer-employee arrangements. The rising tide of independent freelancers and content creators with an ambiguous civil status has shaken the copyright situation. Copyright protection is not just based on the law but also on the adversity of contractual practice and platform governance, which is not so good.

Traditionally, copyright ownership was relatively straightforward. Employees produced works during employment, and employers became the first owners of the works of the employees, while independent contractors retained ownership unless they expressly assigned it. However, as Jane Ginsburg notes in The Author's Place in the Future of Copyright, authors have often been marginalized by intermediaries who capture the economic benefits of creative labour, leaving creators with little bargaining power.[11] This imbalance has become sharper with the growth of platform-mediated work, where content creators and freelancers simultaneously act as entrepreneurs, contractors, and suppliers.

In India, authors are considered to be the first owners of their work under Section 17 of the Copyright Act, 1957, unless anything is done in the course of employment or provided in the contract, in the case of freelancers. An amendment was brought to Section 17 in 2012, which advanced the creators' rights by mandating royalty sharing, especially in the film and music sectors. However, freelancers working on digital platforms are excluded from these protections, and the enforcement is weak.

The Copyright, Designs and Patents Act, 1988 (CDPA) governs copyrights in the United Kingdom.[12] It states that the ownership of work created initially vests with the authors, but it grants the ownership right to the employer of the work created during employment. Freelancers who are independent contractors retain the ownership rights unless any clause is provided in the contract. The creative ecosystem has changed due to the growing reliance on digital platforms; copyright ownership and enforcement now rely more on the private regulations established by intermediaries than on the wording of statutes.[13]

The United States' Copyright Act of 1976 establishes a concept known as the work-for-hire doctrine, which extends ownership to the employers or parties in certain instances.[14] This is

[11] Jane C. Ginsburg, *The Author's Place in the Future of Copyright*, 153 Proc. Am. Phil. Soc'y 147, 148–51 (2009).
[12] Copyright, Designs and Patents Act 1988, c. 48, § 11 (UK).
[13] Ginsburg, supra note 9, at 149–51.
[14] Copyright Act of 1976, 17 U.S.C. § 101 (2024).

given under Section 17 of the US Copyright Act, 1976. In the landmark case Community for Creative Non-Violence v. Reid[15], it was held that the freelancers are not employees unless some specific criteria are satisfied, preserving the authorship of the freelancers. The freelancers can be denied their economic benefits and ownership over the work creators through various contractual assignments.

Contractual Practices and Platform Governance

The contracts play an important role in determining the extent of protection available to freelancers and content creators, even though the statutory provisions establish the authorship and ownership. Standard-form contracts, usually drafted and imposed by the commissioning parties or digital platforms, tend to obligate the creators to assign broad rights as consideration for audience access or other compensation. Being drafted unilaterally, these contracts leave very little room for negotiations and operate to undermine statutory protections.[16] Scholars note that the imbalance is more pronounced in publishing, music, and film, where freelancers are regularly induced to sign away long-term rights with little to no bargaining power.

The role of governance also raises questions of accountability and fairness. In India, when the content is uploaded to any global platform, the provision for enforcing the royalty sharing provision remains limited.[17] In the United States, platform contracts usually expand the reach of the somewhat ill-defined "work-for-hire" doctrine. Contractual practices and platform governance thus figure prominently as challenges in fathoming freelancers' copyright vulnerabilities across jurisdictions.

Taking into consideration, the framework puts the issue of copyright problems facing independent contractors into broader debates about the decline of authorial centrality, increasing clout wielded by intermediaries, and the inability of traditional copyright models in preserving any creative work in the digital era. The framework then encourages enhancement options aimed towards putting the creators of some form of work before the distributors or platforms doing the copyrighting against them through a merger of statutory analysis and

[15] Community. for Creative Non-Violence v. Reid, 490 U.S. 730, 751–52 (1989).
[16] Martin Kretschmer, *Copyright and Contract Law: Regulating Creator Contracts – The State of the Art and a Research Agenda*, 18 J. Intell. Prop. L. & Prac. 141, 144–47 (2010).
[17] João Pedro Quintais, *How Platforms Govern Users' Copyright-Protected Content*, 55 Int'l Rev. Intell. Prop. & Competition L. 157, 160–65 (2024).

theoretical and economic criticisms.

COPYRIGHT OWNERSHIP

One of the biggest challenges contractors face in assigned and commissioned work is copyright ownership. The law in countries such as India, the United Kingdom, and the United States treats the authors of the work as the initial owners. However, due to statutory exceptions, judicial interpretation, and sometimes standard contractual practices prevailing in the industry, the weakest link in the chain- content creators and freelancers- is vulnerable. The comparative examination of jurisdictions brings to light some similarities and some dissimilarities, giving shape to the contours of copyright ownership of today.

India: Copyright Act, 1957, and the 2012 Amendment

In India, the primary legal framework for copyright is the Copyright Act, 1957, which consolidates the earlier statutes that were made pre-independence. Under this Act, authors of the work shall be the first owners of the copyright established under Section 17, but subject to some exceptions.[18] Section 17(b) of the Act specifies that the employers are the owners of the work created during the employment under a contract of service. The difference between the independent contractor and employees is crucial. However, freelancers are presumed to retain ownership unless anything is specified in the contract. Nonetheless, judicial interpretations have limited this protection. The Supreme Court, in Indian Performing Right Society v. Eastern India Motion Pictures Association, held that producers of films acquire copyright in sound recordings upon incorporating musical works into cinematograph films. This decision lessened composers' and lyricists' often freelance ability to ameliorate their separate rights to their creations once absorbed into larger productions.

In the case of Eastern India Motion Pictures Association v. Indian Performing Right Society (1977), it was held in the Supreme Court of India that once a composer or lyricist allows his musical work to be incorporated into a cinematograph film, the producer of that film should become the first owner of the copyright in the film, including its sound recording.[19] The author (composer/lyricist) still has the copyright in the musical or literary work. Still, his right to exploit that work separately is practically curtailed by a public performance of the film. The

[18] Copyright Act, No. 14 of 1957, § 17 (India).
[19] Indian Performing Right Soc'y v. E. India Motion Pictures Ass'n, (1977) 2 SCC 820 (India).

result has been to rank production rights above those of freelance music authors, reflecting creators' vulnerability in the film industry.

The Ilaiyaraaja- Mannumel Boys controversy underlines freelancers' copyright struggles in the film industry in India. The legendary composer Ilaiyaraaja objected to Mannumel Boys and other bands performing or uploading his songs without permission. He claimed that his rights as the author of the musical works were exclusive. He was an independent contractor placed within the freelancer category instead of a salaried employee of film producers. However, once incorporated into cinematograph films, producers or recording companies would often claim ownership of sound recordings, leaving composers with very little control. That dispute highlighted the weaknesses of freelancers when their works are absorbed into larger productions.[20]

The mandatory royalty safeguards were introduced to remedy this inequity under the Copyright (Amendment) Act, 2012. The authors of literary and musical works included in the films or sound recordings are entitled to royalties, and they cannot waive this right even by contract. This is provided under Section 19(9) and 19(10) of the Copyright (Amendment) Act, 2012.[21] Section 57 further reaffirmed moral rights, protecting the author's right to attribution and integrity.[22] The reforms were hailed as a great victory for the music industry authors. Yet scholars argue that enforcement remains weak and that the amendment does not go far enough to address the circumstances of freelancers producing content for digital platforms, who continue to suffer contractual imbalances.[23]

United Kingdom: Copyright, Designs and Patents Act, 1988 (CDPA)

The Copyright, Designs and Patents Act, 1988 regulates copyright in the United Kingdom. The "author" is defined as the person who created the work, and Sections 9 and 11 of the act states that the author is the first owner.[24] The ownership right is transferred to the employer for the work created during employment under Section 11(2). This provision provides freelancers and

[20] S. Mohamed Imranullah, *Ilaiyaraaja Issues Legal Notice to Makers of Manjummel Boys*, The Hindu (May 23, 2024), https://www.thehindu.com/news/national/tamil-nadu/ilaiyaraaja-issues-legal-notice-to-makers-of-manjummel-boys/article68205314.ece
[21] Copyright (Amendment) Act, No. 27 of 2012, §§ 19(9)–(10) (India).
[22] Id. § 57.
[23] Pallavi Nayyar, *Digital Copyright Law: Challenges and Remedies*, 6 Int'l J.L. Mgmt. & Human. 525, 529–31 (2023).
[24] Copyright, Designs and Patents Act 1988, c. 48, § 9 (UK).

independent contractors as the first work owners unless anything is stated in the contract that requires it to be in writing under Section 90.[25]

There are judicial precedents that support these differences. In the case of Griggs Group Ltd v. Evans, the Court of Appeal held that a freelance designer who created the "Dr. Martens" logo retained ownership when a written agreement was absent.[26] In Noah v. Shuba, it was held that the individuals own the works created outside the scope of employment, even if that individual is employed in a related capacity.[27] These decisions make it clear that courts are willing to make fine distinctions between freelancers and employees and, in so doing, protect the ownership rights of freelancers.

However, the freelancers face difficulties in practice. Section 77 – 80 of the CDPA grants moral rights, including the right to be identified as the owner and to object to derogatory treatment. However, these rights can be waived, and it is usual for publishers, broadcasters, and platforms to oblige freelancers contractually to relinquish them.[28] The UK regime gives moral rights somewhat stronger recognition than the United States, but their effectiveness is weakened mainly because they can be waived.

United States: Copyright Act, 1976

The US Copyright Act of 1976 provides a concept of the work-for-hire doctrine, which gives a broader and more complex approach. It is provided that authors of the work are the initial owners under Section 201(a) of the Act.[29] Section 201(b) states that when a job is made for hire, i.e., when a job is made in the course of employment, the author and the initial owner will be the employer or commissioning party.[30] The "work made for hire" can be categorized into two under Section 101, which includes:

Works that are created by the employees in the scope of their employment, and

Specific commissioned works will only be commissioned if the parties agree in writing.

[25] Id. § 90.
[26] Griggs Grp. Ltd. v. Evans [2005] EWCA (Civ) 11 (Eng.).
[27] Noah v. Shuba [1991] FSR 14 (Q.B.).
[28] Copyright, Designs and Patents Act 1988, c. 48, §§ 77–80 (UK).
[29] Copyright Act of 1976, 17 U.S.C. § 201(a) (2024).
[30] Lionel Bently & Brad Sherman, *Intellectual Property Law* 124–27 (5th ed. 2018).

One of the essential landmark US cases related to this doctrine is the Community for Creative Non–Violence v. Reid.[31] It clarified the boundaries of this doctrine. The Supreme Court held that a sculptor retained ownership when commissioned to produce a work. The person is considered an independent contractor and not an employee. The decision set up a multi-factor test: the hiring party controls the contractor's work, how the contractor is paid, and whether the contractor provides their own tools or equipment. This analysis was refined by the Court of Appeals in Aymes v. Bonelli by emphasizing control and supervision as essential considerations.[32]

Despite these decisions, freelance artists often do not keep their copyright titles because of contract provisions. Section 204 requires that copyright transfers be in writing; accordingly, commissioning parties will invariably insist on a work-for-hire clause or an outright assignment.[33] A slight recognition can be given to moral rights in the US. Only certain types of visual art are granted those rights of attribution and integrity under the Visual Artists Rights Act (VARA), codified at 17 U.S.C. § 106A.[34] Therefore, freelancers or contract workers in film, music, or digital media are not endowed with such rights. Scholars say this disparity reflects the power of the distributive agents and platforms in US copyright policy.[35]

CHALLENGES FOR FREELANCERS AND CONTENT CREATORS ACROSS JURISDICTIONS

Technological developments and developments of the digital economy have led to freelancers and content producers being at the nexus of cultural and creative production. However, this change has also impugned the enforcement of copyright law in India, the United Kingdom, and the United States. The interplay and friction between the autonomy achieved by contract and statutory safeguards, compounded by the dominance of intermediaries, produce constant uncertainty regarding ownership, remuneration, and enforcement of rights.

On paper, copyright law looks protective. Section 17 of India's Copyright Act, 1957, identifies the author as the first owner of a work, subject to narrow exceptions.[36] The United States does

[31] Community. for Creative Non-Violence v. Reid, 490 U.S. 730, 751–52 (1989).
[32] Aymes v. Bonelli, 980 F.2d 857, 861–62 (2d Cir. 1992).
[33] Copyright Act of 1976, 17 U.S.C. § 204 (2024).
[34] Id. § 106A.
[35] Jon M. Garon, *New Legislation Renews Conflict Between Content Creators and Content Distributors*, 2011 Bus. L. Today 1, 2–4 (2011).
[36] Copyright Act, No. 14 of 1957, § 17(b) (India).

the same under § 201(a) of its 1976 Act. The UK follows this in the Copyright, Designs and Patents Act 1988 (CDPA). However, things get blurry when we introduce the employer–employee distinction. Under Section 17(b) of the Indian statute, an employer owns works created "in the course of employment under a contract of service." But who counts as an "employee"? Courts, unsurprisingly, have leaned toward broad readings that help producers and studios rather than freelancers.

In the landmark case of 'Indian Performing Rights Society v. Eastern India Motion Pictures Association', the Supreme Court held that once music was embedded in a film, the producer, not the composer, controlled the copyright in the sound recording.[37] For composers and lyricists, many of whom worked as independent contractors, their creative input was swallowed up when incorporated into a film. The law recognized them as "authors," yet in practice, their rights evaporated in the shadow of larger commercial entities. This imbalance echoes across borders. Jane Ginsburg remarks that American authors are routinely pushed into sweeping contracts with publishers and studios that strip them of economic benefits and moral recognition.[38] In theory*, nemo potest plus iuris ad alium transferre quam ipse habet*, meaning no one can transfer more rights than they own. In reality, freelancers often give up nearly everything, including future royalties, to get their work distributed.

The problem intensifies once we examine assignments and waivers. The US Copyright Law permits wholesale assignments of an "all rights, title, and interest" nature, with the right of termination not arising until 35 years thereafter under § 203.[39] The UK-style assignments under Section 90 CDPA are permitted on the same basis, with the only protection being that the contract must be in writing.[40] In India, despite the 2012 amendment introducing royalty-sharing rights for authors of music and literary works in films, most digital freelancers, such as YouTubers composing jingles, still fall outside that protective net.

What complicates things further is the waiver of moral rights. UK law grants authors rights of attribution and integrity under Sections 77–80, but these can be waived.[41] Publishers, television networks, and platforms routinely insist on such waivers. It leaves the freelancer in an odd space: they are the "author," but with no right to be credited or to object when their work is

[37] Indian Performing Right Soc'y v. E. India Motion Pictures Ass'n, (1977) 2 SCC 820 (India).
[38] Ginsburg, supra note 9, at 149–51.
[39] 17 U.S.C. § 203 (2018).
[40] Copyright, Designs and Patents Act 1988, c. 48, § 90 (UK).
[41] Id. §§ 77–80.

altered beyond recognition. Lionel Bently and Brad Sherman point out that while moral rights look strong on paper, they dissolve in the face of contractual bargaining.[42]

The so-called platform owner devised a novel twist if contracts were insufficient. João Quintais has described them as "private copyright regulators." They generate their own rules by means of terms of service. For example, an artist uploading a song to YouTube usually grants the platform a broad, royalty-free license to use and exploit the work worldwide. It is not uncommon for independent musicians to find their own compositions flagged because a significant label claims ownership. The irony is painful: the author recognized by statute may be invisible to the algorithm.

This raises more profound questions about who actually governs copyright in practice. Pallavi Nayyar notes how social media and peer-to-peer networks multiply opportunities for infringement. In India, the case of Super Cassettes v. Yahoo brought to light the uncertainty of streaming music online without proper licenses vis-à-vis the traditional rights holders.[43] In the USA, the provision of notice and takedown under the DMCA is supposed to protect authors; in actual effect, however, platforms enjoy outright immunity while the authors not only have to send endless takedown notices but also waste valuable time and energy on the exercise.[44] The maxim ubi jus ibi remedium, which means where there is a right, there is a remedy, is empty in situations where remedies are too challenging to pursue.

The case law across jurisdictions paints a mixed picture. In India, beyond the IPRS ruling, the Ilaiyaraaja controversies stand out. According to Ilaiyaraaja, as an independent composer, no producer or band can exploit his works without his consent. However, the courts always sided with the producers, reflecting the unfortunate status of famous freelancers whose rights cannot be protected once their works are integrated into films.

Under US law, Community for Creative Non-Violence v. Reid determined that independent contractors are not employees and thus retain copyright unless a copyright is assigned to the fatherland under a "work-for-hire" agreement.[45] Upon receiving this news, commissioning parties began swiftly including express work-for-hire clauses in their contracts, thereby shifting all ownership rights to themselves. In Aymes v. Bonelli, the Second Circuit emphasized control

[42] Bently & Sherman, supra note 124 - 127, at 27.
[43] Super Cassettes Indus. Ltd. v. Yahoo Inc., CS (OS) 1124/2008 (Del. H.C.).
[44] Digital Millennium Copyright Act, 17 U.S.C. § 512 (2018).
[45] *Reid*, 490 U.S. at 751–52.

as a determining factor of employment status, but, again, the freelance writer had an uncertain position.[46] Griggs Group Ltd v. Evans appeared to afford some freelancer protection in the United Kingdom. The court recognized that a designer retained copyright in the "Dr. Martens" logo because he had never assigned it in writing.[47] However, other decisions, like that in Noah v. Shuba, show courts grappling with and sometimes to the detriment of individual creators with this sordid veil of employment.

A right spoken in law might be constitutional, but cannot be enforced. Hence, laws like SOPA and PRO-IP were passed ostensibly to counteract infringement; however, another line of thought says they are laws that strengthen distributors at the expense of creators.[48] Further, international conventions like Berne and TRIPS set basic minimum standards but evoke enforcement challenges practically at the national level. The digital environment has created what Baldwin has called "public domain by default"- a place where works circulate freely across borders and individual freelancers cannot chase after every infringement.[49]

Complicating matters further is technology with digital watermarking and blockchain-based licensing coming in as new tools but also tools that a freelancer neither has the financial resources, nor the technical know-how. Moreover, AI presents a considerable challenge: freelance work is routinely scraped in training datasets without consent. Samuelson warned decades ago about the difficulties in allocating rights for computer-generated works; we can only imagine how much more complex that problem has become today.[50] Freelancers could see the products of their creativity turned into AI outputs under these kinds of scenarios without any name or payment given to them for their work.

Across the board, the same themes are repeated: independent contractors are authors in name, but outsiders in fact. The 2012 amendment from India sought to guarantee royalty payments to composers and lyricists, but those who work digitally were left out. The UK recognizes moral rights but permits them to be waived. The US provides termination rights, which are usually negated by work-for-hire contracts. dThe maxim *pacta sunt servanda*, literally means

[46] *Aymes*, 980 F.2d at 861–62.
[47] *Griggs Grp.*, [2005] EWCA (Civ) 11.
[48] Jon M. Garon, *New Legislation Renews Conflict Between Content Creators and Content Distributors*, 2011 Bus. L. Today 1, 2–3.
[49] Robert Baldwin, *The Rise of the Digital Public Domain*, in *Law and the Information Society* 215, 220–22 (2014).
[50] Pamela Samuelson, *Allocating Ownership Rights in Computer-Generated Works*, 47 U. Pitt. L. Rev. 1185, 1188–90 (1986).

agreements must be kept sits uncomfortably here. When contracts are lopsided, should they still bind? Should copyright law protect weaker parties, much like labor law does for employees? These are not easy questions. However, without reform, freelancers will continue to inhabit a grey zone: neither full proprietors of their works nor fully protected workers.

WAY FORWARD: TOWARDS A BALANCED FRAMEWORK

A study of India, UK, and USA indicates that freelancers and digital creators have similar challenges in their positions. Although such individuals are identified by law as "authors," those who generate creative value typically lose a significant portion of their ownership to contracts and other structural inequities. Lack of legislation is not the issue; rather, the difficulty lies in the narrow and supercilious nature of the available safeguards. Copyright reform does not need to remove copyright; rather, it must be adjusted to better balance the rights of those who generate creative value.

The enactment of Copyright (Amendment) Act, 2012 through Sections 19(9) and 19(10) affords lyricists and composers in both cinematographic projects and sound recordings royalty rights that cannot be waived by contract. At last, a long-standing grievance within the film industry was addressed. However, the scope of protection provided by the recent amendments is comparatively limited. Independent digital authors such as musicians, animators, and podcasters on YouTube, continue to be exposed to expansive contracts from platforms used to distribute their works. A much-needed extension of statutory royalty protection to those digital creators whose works are disseminated digitally will address the current, glaring lack of protection in statutes.

Moral rights of authors are stronger in the UK under Copyright, Designs and Patents Act 1988, which includes provisions for both attribution rights and integrity rights. However, authors are allowed to waive their moral rights in England, and moral rights waiver provisions are routinely included in contracts for publishing and broadcasting authors' works. Therefore, while the UK affords generous provisions for moral rights to authors, the generosity and equity associated with them is greatly diminished in practical terms.

The United States is the most significant hurdle. The Copyright Act of 1976's work-for-hire doctrine gives commissioning parties the first claim of ownership.[51] While the ruling in

[51] Copyright Act of 1976, 17 U.S.C. § 101 (2024).

Community for Creative Non-Violence v. Reid clarified that independent contractors are not automatically classified as employees; many industries quickly amended their contracts to broadly cover independent contractors in order to circumvent this decision. The moral rights granted under VARA are also limited,[52] and the termination rights granted under § 203 are procedurally overwhelming, although are symbolically strong. Narrowing the definition of work-for-hire and conducting additional expansion to moral rights would be incremental but impactful changes.

Digital platforms add a new layer of control over copyright issues. Digital platforms are often labelled "private copyright regulators" by academics. When content is uploaded to a digital platform, users are most typically granting broad, royalty-free licenses to the platform that is hosting the content. Automated systems, such as the Content ID system offered by YouTube, are designed to favour the larger rights holders, often to the detriment of the little rights holders.[53] Regulatory frameworks similar to the EU Digital Services Act imply that legislation from countries can require fair and transparent ways of licensing content.

Collective bargaining is another avenue. Collective management organizations (CMOs), such as Indian Performing Rights Society (IPRS), provide limited representation for their members.[54] However, digital freelancers generally do not have equivalent institutional strength when compared to the traditional members of those organizations. Promoting guilds or trade associations by sector would restore negotiating parity.

The rise of artificial intelligence adds to the complexity of the situation. Generative systems utilise large amounts of data that include works of art, often without express permission from the original artist. Therefore, a forward-thinking system might provide for an express authorisation requirement, or a statutory licensing model that would guarantee payment. Although international agreements such as the WIPO and TRIPS provide basic protection, they do not directly address the precariousness of freelance work. A new treaty that would focus on independent artists and provide for, at minimum, unwavering moral rights and fair compensation, would establish a worldwide minimum level of protection.

In order for copyright to provide not merely symbolic recognition but true substantive security,

[52] Id. § 106A.
[53] João Pedro Quintais, *How Platforms Govern Users' Copyright-Protected Content*, 55 Int'l Rev. Intell. Prop. & Competition L. 157, 160–65 (2024).
[54] Indian Performing Right Soc'y, *About IPRS*, https://www.iprs.org (last visited Sept. 20, 2025).

action must be taken in several areas: amending the current copyright statutes, regulating the platforms' conduct, enhancing the capacity of collective action, and policing the exploitation of artistic works by way of AI.

CONCLUSION

Comparing India, the UK and the US, a pattern emerges: it's both reassuring and alarming to see that all three countries classify freelancers and content creators as authors. Each of the national copyright acts says as much when defining authorship. Section 17 in the Copyright Act of 1957. Sarbanes' CDPA 1988; and 17 U.S.C. § 201(a) in the Copyright Act of 1976 refer to an author's work as just the beginning. The promise usually tends to find no ground in fact. As an instance, a limitation stands in the matters of Indian Performing Rights Society v. Eastern India Motion Pictures Association and C.F.N.V. v. Reid, both considerably establishing that as soon as producers, commissioners, or intermediaries enter the picture, intermediaries' rights begin to dissipate. The 2012 amendment seemed a minor warmth for lyricists and composers whose royalties cannot be waived against negligence. But its ambit is narrow, covering only traditional film and music, but almost leaving digital creators outside; the latter form a growing share of cultural output. While the UK has legal protection for moral rights, these rights are typically considered to be bargaining chips and are easily relinquished, therefore undermining their function as protections. The termination rights afforded to authors in the US are often complex and costly, resulting in many freelancers abandoning their author rights altogether.

The emergence of platforms (i.e., YouTube's Content ID and TikTok licensing) has further complicated this situation due to their private "copyright-like" enforcement measures where producers do not have much say regarding how their rights will be enforced. The emergence of artificial intelligence, with the potential for freelancers to be exploited by having their work scraped for purposes of developing training datasets, creates an additional layer of uncertainty with the protection of freelancers' works as legal questions arise regarding whether or not this exploitation is lawful.

Freelancers have a vulnerable role between employees' rights and business owners' rights. In order to achieve what copyright law was intended to do, copyright law needs to be broader than just the limited categories of the current copyright law. Furthermore, it is also not enough to provide additional inalienable rights and prohibit exploitation within contracts or to place duties on platforms concerning copyright; we must also agree upon a harmonized approach to copyright law around the world.