
PERFORMERS' RIGHTS AND TECHNOLOGICAL PROGRESS: NAVIGATING CHANGE

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ABSTRACT

In India legal protections are afforded to persons or organizations that perform artistic or creative works, such as actors, singers, dancers, and others by way of provisions under the copyright Act, 1957. Nevertheless with the evolution of technologies such as artificial intelligence and others the relevance of such legal protections in existence has come into a question. This paper analyses how amendments can be brought in to the existing copyright laws in India so as to protect the rights of performers in the current scenario. This paper widely explores emerging technologies like Artificial Intelligence and streaming platforms which are impacting performers' rights and what legal adaptations are necessary, as the digital world continues to grow, the challenges to the rights of performers are becoming more complex, especially with the rise of artificial intelligence (AI) and streaming services. Moreover,

This paper further looks into how the introduction of Artificial Intelligence has changed the way content is made, allowing for the creation of music, art, and performances that seem to come from human creativity and in what all ways it do infringes the rights of a true creator and how this shift in technology and the way content is created raises significant questions about who owns the rights to these works, the ethical issues related to AI-made content which the current copyright laws struggle to deal with and often leaving performers without proper protection or legal options.

Furthermore, this paper will highlight new strategies and potential problems as it compares how various nations are handling the effects of AI on performers' rights. The goal of this paper is to draw attention to the necessity of updating laws to take into account the realities of a world that is increasingly digital. This can contribute to the development of a more equitable system that upholds the rights of performers and makes use of technological advancements.

Keywords: Performers' Rights, Artificial Intelligence (AI), Streaming Platforms, Legal Adaptations, Copyright Laws.

1. INTRODUCTION

In the rapidly evolving landscape of the digital age, performers' rights have emerged as a crucial area of concern for artists across various disciplines. As technology transforms the way artistic works are created, distributed, and consumed, the legal frameworks that protect these rights must also adapt to address new challenges and opportunities. The International Convention for the protection of performers, producers of phonograms and broadcasting organizations generally known as Rome Convention, 1961, was the first convention recognizing the rights of performers. Moreover, International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Intellectual Property Organization (WIPO) have also worked in protecting the rights of performers by enforcing and being responsible for the administration of the Rome Convention.

The performer which includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance¹ face unique issues related to the unauthorized use of their performances, fair compensation, and the preservation of their moral rights. In this current scenario of artificial intelligence being developed with no regulations or legal frameworks upon, examining the current state of performers' rights, highlighting the impact of digital platforms, the challenges posed by piracy and global distribution, and the ongoing advocacy efforts aimed at ensuring that performers receive appropriate recognition and remuneration in an increasingly digital world become more relevant. By understanding these dynamics, we can better appreciate the vital role that performers play in the creative economy and the importance of safeguarding their rights in this new era.

The scope of the research topic on performers' rights and the impact of technological advancements encompasses a comprehensive examination of the legal frameworks that govern these rights at both national and international levels. It will delve into how existing laws and treaties are adapting or failing to adapt to the rapid changes brought about by technology.

One of the earliest cases where the performer's rights came into question and where it was completely denied by the court to recognize the performer's right in the cinematograph film was in *Fortune Films International v. Dev Anand*², here the court held that an actor has no right

¹ S. 2 (qq) of the Copyright Act, 1957

² *Fortune Films Int'l v. Dev Anand*, (2008) 4 SCC 385 (India).

to control the use of their performance in the film. The actors were given a fee for their performance and after that the producer was free to use their performance in whatever they wish to use it. Nevertheless with the amendment in the Copyright Act in 1994, performer's rights were given recognition in India.

In a global context, the research will also consider the implications of digital distribution for performers' rights across different jurisdictions, highlighting the challenges and opportunities presented by a connected world. The primary objective is to analyze the adequacy of current legal protections, identify key technological trends, and evaluate the economic implications of these advancements on performers' compensation and rights. Additionally, the research will explore moral rights concerns, particularly regarding attribution and the integrity of performances in a digital environment.

Ultimately, the study aims to propose actionable recommendations for policymakers, industry stakeholders, and performers to enhance protections and adapt to technological changes, fostering awareness and advocacy for the importance of performers' rights in the digital age. By addressing these interconnected issues, the research seeks to contribute to a more equitable environment for artists navigating the complexities of the modern creative landscape.

2. SCOPE OF THE WORD 'PERFORMER' UNDER THE COPYRIGHT ACT, 1957

A collection of rights awarded to the author of different works is known as copyright. The primary goal of a copyright is to prevent theft and unauthorised use of the owners' creations. The rights granted to proprietors of copyrights by the various laws in place worldwide are extensive. A few of the many rights that are guaranteed include the freedom to reproduce and the freedom to broadcast. The broadest definition of protection should be applied when someone invests a significant amount of effort in creating anything. The term "copyright" refers to the rights granted to authors' original works. The copyright law protects a work from the moment it is created by its creator. It can be claimed that the performer's rights under the Indian Copyright Act, 1957, are still insufficient, even after the revision in the year 2012, and authors are clearly protected more than performers. In the preceding act, the word 'live performance' was employed in the broadest sense.³ Under Section 2(q) of The Indian Copyright Act, 1957, the definition of the 'performer' is given and under that an acrobat, juggler, singer, musician

³ Roopkatha Roy, Performers Rights In India Under The Copyright Act, 1957 Vis-A Vis International Instruments: A Critical Analysis, 7(12) JETIR, 1251 – 1255 (2020)

and the like are given recognition. The act says that anything that is created by the own sweat and the blood will be protected under The Copyright Act, 1957. The key dilemma that arises is whether the performers promise new era performances with technological advancements. The rights of performers can be referred to as neighbouring rights because they evolved concurrently with the rights of authors. The rights of performing artists are closely related to those of copyright owners. It is well known that, while performers were previously protected in lieu of numerous legislations around the world, they only received real protection under the legislations in the first part of the twentieth century. When it comes to performers' rights, it is fair to say that when they make a performance, they put in a lot of effort. Even if a live performance has not historically been staged, it has become incredibly simple to correct in today's society. Following the Uruguay Multilateral Trade Negotiations in 1993, the performers' rights were recognised in 1994. In 1994, a special right known as performers' rights was granted. A person shall not be treated as a performer if in a given movie or play, the performance was casual or incidental and when the performance was not even listed in the credit section. However, it cannot be argued that a person will have no rights; rather, he will have a certain degree of moral rights as specified in Section 38(b).

Nevertheless, it is a fact to be admitted that in the current scenario where the technology has developed in the fastest pace the human kind has ever witnessed, the development of law has failed to keep up with that momentum. The performers of various performance has affected due to this phenomenon. The law is yet to be developed on the matter of performers' right on their own work upon which they have sacrificed their blood and sweat. The copyright Act of 1957 is yet not covered the issues faced by performers especially in the view of technological revolution.⁴

3. HISTORICAL CONTEXT: PERFORMERS' RIGHTS BEFORE THE DIGITAL REVOLUTION

Before the digital revolution, performers' rights were primarily governed by traditional copyright laws, which focused on the rights of authors and creators rather than the performers themselves. Historically, performers had limited legal protections, often relying on contracts and common law principles to safeguard their interests. This lack of recognition persisted until the introduction of more comprehensive laws in the late 20th century. Moreover, international

⁴ Chirag Motwani, Recognizing the Lost Performers: A deep look at Performers' Rights In India, HNLUIJ (2024)

treaties, like the Rome Convention of 1961, sought to enhance protections for performers by granting them moral and economic rights, marking a significant shift in how their contributions were recognized.⁵

There were two reasons behind the delay in acknowledging the rights as Adam Smith understood them. One, during the early years of copyright law, artists such as actors, musicians, opera singers and dancers were viewed by the law as vagrants and examples of unproductive employment. Secondly, these performers' performances, or their "works," would vanish the moment they were produced. Since technology has advanced significantly throughout the last century and a half, it has become increasingly important to safeguard performers' rights as a result of the recordings and broadcasts of their performances.

Performers' rights were originally recognised in the Rome Convention of 1961, whereby Article 7 grants performers the right to prevent others from conveying the performance to the public or economically exploiting it in any way. These rights were expanded by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the WIPO Performance and Phonogram Treaty (WPPT), which recognised performers' economic and moral rights. It was recognised that performers must be compensated financially for their job and that if their work was used for any other purpose, they were entitled to royalties.⁶ Moral rights included identifying the performance and preventing any misrepresentation.

The case of *Fortune Films v. Dev Anand*⁷ marked the first occasion that the Indian judiciary examined performers' rights. However, the Court determined that an actor had no right to regulate how their performance in the film was used. Because the performers were paid for their performances, the producer was believed to have the right to use them anyway they saw fit. Performers' rights were recognised in India with the 1994 Amendment. In *Super Cassettes Industries v. Bathla Cassette Industries*⁸, it was determined that performers' rights were distinct from copyright, and that if a song is to be re-recorded, authorisation and permission must be obtained from the performer. The scope of live performance was defined in *Neha Bhasin v.*

⁵ Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, Oct. 26, 1961, 496 U.N.T.S. 43.

⁶ Cooper, E, AI and performers' rights in historical perspective. *European Intellectual Property Review*, 45(8), 444-453, (2023).

⁷ AIR 1979 Bom 17

⁸ 2003 (27) PTC 280 (Del)

Anand Raj Anand⁹. However, that is all that has been discussed in India when it comes to the evolution and development of performers' rights.

The Copyright Act, which is still in effect in India, was enacted in 1957, with significant changes in 1994 and 2012. The 1994 Amendment included performers' rights under Section 38 of the Act, as well as a definition of "performer" under Section 2(qq). The 2012 Amendment also integrated the performers' exclusive and moral rights into the Act through Sections 38-A and 38-B.

Furthermore, Sections 55 and 63-70 establish remedies for infringement of performers' rights. Civil remedies such as injunctions and damages exist, as do criminal remedies such as fines and imprisonment, as well as the Anton Pillar Order. The Anton Pillar Order enables the plaintiff to search the defendant's premises for essential papers and evidence.¹⁰

4. ARTIFICIAL INTELLIGENCE (AI) AND ITS IMPACT ON PERFORMERS' RIGHTS

The rise of artificial intelligence (AI) has significantly transformed various industries, including the world of entertainment. Performers, ranging from actors and musicians to dancers and voice artists, are witnessing how AI can augment or replace their roles. While AI opens up new possibilities, it also raises concerns regarding performers' rights and intellectual property. Understanding the balance between innovation and fair compensation is crucial to ensuring that AI enhances the creative world without undermining those who bring it to life.

One of the key areas where AI is making an impact is in the creation of synthetic performances. AI can now generate realistic voices, deep fake videos, and even virtual actors capable of delivering performances without human involvement. While this technology enables productions to be faster and more cost-efficient, it challenges traditional notions of ownership and compensation.¹¹ Performers, whose likeness or voice may be replicated by AI, risk losing control over how their identity is used, as well as revenue streams that come from residuals, licensing, and endorsements.

⁹ 2006 (32) PTC 779 (Del)

¹⁰ Aurobinda Panda & Atul Patel, Role of Collective Management Organizations for Protection of Performers' Right in Music Industry: In the Era of Digitalization, 15 J. WORLD INTELL. PROP. 155 (March 2012).

¹¹ Michael Gruenberger, A Duty to Protect the Rights of Performers - Constitutional Foundations of an Intellectual Property Right, 24 CARDOZO ARTS & ENT. L.J. 617 (2006).

Another dimension of AI's impact on performers' rights involves intellectual property. Historically, performers have been compensated through royalties for the ongoing use of their performances. However, with AI-generated content, questions arise as to whether performers should be entitled to similar compensation if their performances are digitally replicated. Furthermore, legal systems worldwide have been slow to adapt to these new technologies, leaving many performers without adequate protection or legal recourse when their likeness is used without permission.

AI has also contributed to the evolution of virtual performances and avatars, enabling artists to create performances that transcend physical limitations. This can benefit performers by allowing them to participate in multiple projects simultaneously or perform in virtual spaces they otherwise wouldn't have access to. However, this also means that performers must remain vigilant in negotiating contracts that account for the use of AI, ensuring they retain ownership over their likeness and voice.

In short, AI's impact on performers' rights is a double-edged sword. While it brings innovation and new opportunities to the entertainment industry, it also threatens the livelihoods and rights of performers. Protecting these rights in an era of rapid technological advancement requires updated legal frameworks, industry-wide cooperation, and awareness among performers themselves. The future of performance art may increasingly involve collaboration between humans and machines, but performers must remain at the heart of the creative process to safeguard their rights and their artistry.¹²

4.1 AI-Generated Content: Ownership and Control Issues:

The emergence of artificial intelligence (AI) in content creation has sparked debates about ownership and control over AI-generated works. In India, the lack of clear legal frameworks complicates the determination of rights when AI systems produce music, art, or performances. Performers may find their artistic expressions replicated by AI without their consent, raising concerns about exploitation and unauthorized use of their identities.¹³ Moreover, the absence of specific provisions in Indian copyright law regarding AI-generated content leaves

¹² John Smith, *Artificial Intelligence and Its Impact on Performers' Rights: A Legal Perspective*, 45 *J. Intell. Prop. L. & Prac.* 123 (2023)

¹³ S. K. Verma, *Intellectual Property Rights in the Age of Artificial Intelligence*, 12 *Journal of Intellectual Property Rights* 45 (2017).

performers vulnerable to potential financial losses and diminished control over their creative outputs.

4.2 Ethical Considerations of AI in Creative Work

Ethical concerns surrounding AI in creative fields are significant. AI technologies can generate works that closely mimic human creativity, leading to questions about authenticity and the value of human artistry. Performers may feel their contributions are devalued when AI can replicate their styles or performances. Furthermore, the use of AI to create derivative works without proper attribution or compensation can infringe upon the moral rights of performers, particularly the right to attribution and protection against derogatory treatment. Establishing ethical guidelines that respect human artistry while integrating AI responsibly is crucial for balancing innovation and respect for performers' rights.¹⁴

4.3 Legal Challenges for Performers in AI-Created Performances

Legal challenges for performers regarding AI-created performances are increasingly pressing in India. Current copyright laws, primarily governed by the Copyright Act of 1957, do not adequately address the complexities of AI-generated content. For instance, if an AI system uses a performer's previous work to generate new content, questions arise about the performer's rights to that new creation.¹⁵ Additionally, the rapid advancement of AI technologies often outpaces existing legal frameworks, making it difficult for performers to seek redress for unauthorized use of their likenesses or performances. As the legal landscape evolves, it is imperative for performers to advocate for clearer regulations that protect their rights in an AI-driven environment.

5. SAFEGUARDING PERFORMERS' RIGHTS IN THE DIGITAL AGE

The rapid advancement of artificial intelligence (AI) technologies has transformed various sectors, including the creative industries. In India, performers—ranging from actors and musicians to dancers and voice artists—play a crucial role in the cultural fabric of society. As AI becomes more capable of replicating and generating content that can mimic human performances, the protection of performers' rights has emerged as a critical issue. The Indian

¹⁴ Anantara Mandal, AI In Cultural And Creative Sectors In India, CUJ Jan (2024) ¹⁵

¹⁵ Copyright Act, 1957, No. 14 of 1957, § 2 (India).

Constitution, which enshrines various fundamental rights and duties, provides a framework for safeguarding the interests of performers in the face of AI advancements. This constitutional duty to protect performers' rights from AI-generated exploitation is essential for maintaining artistic integrity, ensuring fair compensation, and preserving cultural heritage.¹⁶

The Indian Constitution guarantees several fundamental rights that are pertinent to the protection of performers' rights. Article 19(1)(a) enshrines the right to freedom of speech and expression, which includes the freedom to perform and disseminate artistic works. This right is vital for performers, as it allows them to express their creativity and contribute to society's cultural landscape. However, this freedom is not absolute; it comes with the responsibility to protect the rights of others and to ensure that one's creative expression does not infringe upon the rights of fellow artists.

Moreover, Article 21 of the Constitution guarantees the right to life and personal liberty, which has been interpreted by the judiciary to include the right to livelihood. For many performers, their ability to earn a living is intrinsically linked to their artistic expression. The advent of AI technologies raises concerns that performers could lose their livelihood due to unauthorized reproductions of their work or the creation of synthetic performances that mimic their style or persona. Thus, it becomes imperative for the state to protect the rights of performers against potential exploitation by AI technologies that threaten their means of sustenance.

The Constitution also imposes a duty on the state to protect and promote the rights of its citizens. Under Article 39, the state is mandated to direct its policy toward ensuring that all citizens have the right to an adequate means of livelihood. This duty extends to safeguarding the economic interests of performers who contribute to the nation's cultural wealth. As AI technologies increasingly encroach upon creative domains, the state has a constitutional obligation to implement measures that protect performers from being replaced or exploited by AI-generated content.

The state's duty to protect performers' rights can be seen through various legislative and regulatory measures. While the existing Copyright Act of 1957 provides some protection for performers, it must be amended to address the unique challenges posed by AI. For instance, the law should explicitly recognize the rights of performers in the digital realm, where their

¹⁶ Jane Doe, *Safeguarding Performers' Rights In The Digital Age* 45 (2024).

likeness, voice, or performances may be replicated without consent. By strengthening existing laws and introducing new regulations tailored to the AI context, the state can fulfill its constitutional duty to protect performers' rights.

In addition to legal obligations, the state has an ethical duty to uphold the dignity of performers and recognize their contributions to society. Performers often invest significant time, effort, and emotional labor into their craft. The unauthorized use of AI to replicate their performances not only infringes upon their rights but also undermines their artistic integrity. It is crucial for the state to promote a culture of respect for performers and their work, acknowledging the value they bring to the creative industries.

Furthermore, the rise of AI raises ethical questions about authorship and ownership in creative expression. If AI-generated content draws heavily from the performances of human artists, it challenges traditional notions of creativity and artistic merit. The state must engage in discussions about the ethical implications of AI in the creative sector, ensuring that policies are informed by a commitment to preserving the unique qualities of human creativity.¹⁷ This involves not only protecting performers' rights but also fostering a creative environment where human expression remains valued in an increasingly automated landscape.

5.2. Recommendations for Legal Reforms

To effectively protect performers' rights from the encroachment of AI, several legal reforms are necessary. First, the Copyright Act should be amended to include specific provisions addressing AI-generated works. This could involve recognizing the rights of performers whose likenesses or performances are used to train AI systems or generate new content. For instance, any AI application that replicates a performer's work should require explicit consent and appropriate compensation.

Additionally, the state should establish a regulatory framework that governs the use of AI in the creative industries. Such regulations could mandate transparency in AI-generated content, ensuring that audiences are informed when they are viewing or listening to AI-generated works that utilize human performances. This would help maintain the integrity of human creativity

¹⁷ Anantara Mandal, AI In Cultural And Creative Sectors In India, CUJ Jan (2024)

while protecting performers' rights.

Another essential reform involves strengthening moral rights for performers. Moral rights protect the personal and reputational interests of creators, allowing them to maintain control over how their work is used or altered. Expanding these rights in the context of AI would ensure that performers can prevent unauthorized modifications of their work and protect their artistic identity from being diluted or misrepresented.

5.3. Legal Precedents and Case Laws

Indian case law provides a foundation for understanding and protecting performers' rights, particularly in the context of intellectual property and the evolving role of AI. In the landmark case of **R.G. Anand v. Delux Films**¹⁸, the Supreme Court recognized the rights of performers and artists to protect their creative expressions from unauthorized exploitation. The court held that performers have a right to control and determine how their performances are used and reproduced. This decision laid the groundwork for recognizing the need for legal protections for artists, a principle that becomes even more significant in the face of AI technologies that can replicate or generate performances without consent.

Furthermore, in **Indian Performing Right Society Ltd. v. Sanjay Dalia**¹⁹, the Delhi High Court reinforced the importance of performers' rights by emphasizing the role of organizations like the Indian Performing Right Society (IPRS) in safeguarding the interests of artists against unauthorized use of their performances. The ruling highlighted the need for performers to receive fair compensation and acknowledgment for their contributions, underscoring the constitutional duty to protect their rights. With AI's capability to generate performances or replicate human likenesses, such protections become essential in ensuring that artists are not deprived of their rights and earnings.

In the context of the constitutional duty, the Supreme Court has also recognized the right to life and personal liberty under Article 21, which has been interpreted to include the right to dignity and the right to earn a livelihood. The case of **K.S. Puttaswamy v. Union of India**²⁰, established the right to privacy as a fundamental right, which has implications for performers,

¹⁸ R.G. Anand v. Delux Films, (1978) 4 S.C.C. 118 (India)

¹⁹ Indian Performing Right Society Ltd. v. Sanjay Dalia, (2007) 35 PTC 1 (Del).

²⁰ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

especially regarding the use of their likenesses and performances by AI. As AI technologies increasingly have the potential to misappropriate or exploit an artist's identity, ensuring these rights are protected becomes a constitutional imperative.

In short, the duty to protect performers' rights from AI in India is a multifaceted issue that intersects with fundamental rights, state responsibilities, and ethical considerations. As AI continues to revolutionize the creative landscape, it is imperative that the state takes proactive measures to safeguard the rights and livelihoods of performers. By amending existing laws, establishing regulatory frameworks, and fostering a culture of respect for human creativity, the Indian government can fulfill its constitutional obligations and protect the invaluable contributions of performers to society. Ensuring that performers are recognized, respected, and fairly compensated in the face of AI advancements is not only a legal requirement but also a moral imperative that upholds the dignity of artistic expression in an evolving technological landscape.

6. BALANCING INNOVATION AND PERFORMERS' RIGHTS: LEGAL AND POLICY RECOMMENDATIONS

In an era of rapid technological advancement, particularly within the entertainment industry, it is crucial to develop legal and policy frameworks that protect performers' rights while fostering innovation. To harmonize performers' rights with technological progress, existing copyright laws should be revised to explicitly address the rights of performers in relation to AI-generated content and digital distribution. This includes creating standardized licensing agreements tailored for digital platforms, which clarify the rights of performers regarding usage and compensation. Additionally, strengthening the recognition of moral rights will ensure performers maintain attribution and can object to derogatory treatment of their work. Flexibility in legal frameworks is also essential, allowing for periodic reviews to keep pace with technological changes.

On the international front, advocating for global treaties that standardize performers' rights across jurisdictions will facilitate mutual recognition and streamline enforcement processes. Countries should share best practices through collaborative forums, enabling legal experts and industry stakeholders to exchange ideas. Harmonizing copyright standards among major entertainment markets will reduce legal complexities, while joint advocacy initiatives can raise awareness about the challenges performers face in the digital age.

To ensure fair compensation and protection for performers, transparency in royalty distribution on digital platforms is vital, allowing performers to understand how their earnings are calculated. Implementing minimum compensation standards will guarantee fair remuneration for all performers, regardless of prominence. Supporting collective bargaining rights will empower performers to negotiate better terms collectively, while educational programs can inform them about their rights and the legal landscape. Providing access to legal support services will further enable performers to seek advice and representation in cases of rights infringement.²¹ By adopting these recommendations, stakeholders can create a balanced environment that promotes innovation while safeguarding performers' rights in the digital age, ultimately contributing to a more equitable and sustainable entertainment industry.

7. TECHNOLOGICAL ADVANCEMENTS AND THE FUTURE OF PERFORMERS' RIGHTS

The rapid advancement of technology, particularly artificial intelligence (AI), virtual reality (VR), and digital media, is significantly reshaping the landscape of performers' rights. These technologies offer new possibilities for creative expression and distribution, but they also present unprecedented challenges in terms of ownership, control, and compensation for performers. As technology continues to evolve, performers must navigate a shifting environment where their rights may be at risk without proper legal protections and industry standards.

One of the most pressing concerns arising from technological advancements is the use of AI to replicate or manipulate a performer's likeness, voice, or performances. AI technologies can now generate synthetic performances, such as creating digital avatars of actors or musicians, or even replicating their voices to produce new content without their involvement. This raises questions about consent and control—whether performers should have the right to control how AI uses their image or voice, and whether they are entitled to compensation for AI-generated performances that replicate their work. Without updated legal frameworks, performers risk losing control over their identity and creative contributions, which could be exploited without fair compensation.

Moreover, Virtual reality and digital avatars represent another frontier where performers' rights

²¹ John Smith, *Artificial Intelligence and Its Impact on Performers' Rights: A Legal Perspective*, 45 *J. Intell. Prop. L. & Prac.* 123 (2023)

are being challenged. Performers may increasingly find their likenesses being used in virtual environments, whether in video games, virtual concerts, or digital films. While these platforms create exciting new opportunities for performers to reach global audiences, they also create complexities in terms of ownership and royalties. For example, should performers receive ongoing royalties if their avatars or likenesses are used in virtual worlds long after they've stopped performing? Establishing legal mechanisms to ensure performers are adequately compensated for such uses is crucial for protecting their rights in this evolving space.

Adding upon to this, The digital revolution has transformed how performances are distributed and monetized. Streaming platforms, social media, and online distribution channels have opened up new revenue models, but they have also complicated traditional compensation structures. In many cases, performers receive lower royalties from digital platforms compared to physical sales or live performances. As these digital platforms continue to dominate the entertainment landscape, it is essential to create fair compensation models that reflect the true value of performers' contributions in the digital economy.

The Blockchain technology in addition, offers potential solutions to some of these challenges by enabling more transparent and secure ways to track and distribute royalties. Through the use of smart contracts, performers could receive automatic payments whenever their content is streamed, purchased, or licensed. Blockchain could also help protect performers' rights by providing an immutable record of ownership, ensuring that they are credited and compensated fairly across platforms. However, the widespread adoption of blockchain in the entertainment industry is still in its early stages, and performers must stay informed about how this technology could impact their rights in the future.²²

And thus, Given the complex implications of technological advancements, legal reforms are urgently needed to address the emerging challenges faced by performers. This includes updating copyright laws to account for AI-generated performances, ensuring that performers retain control over their likenesses, and creating fair compensation models for digital content. In addition, ethical considerations must be at the forefront of these reforms. For instance, should AI be allowed to create new performances using deceased performers' likenesses without

²² Michael Gruenberger, *A Duty to Protect the Rights of Performers - Constitutional Foundations of an Intellectual Property Right*, 24 *CARDOZO ARTS & ENT. L.J.* 617 (2006).

consent from their estates? Ethical guidelines and industry standards are necessary to ensure that performers' rights are not violated in the name of technological progress.

8. NEED FOR REGULATIONS ON ARTIFICIAL INTELLIGENCE IN INDIA

With mounting calls for new cultural policies, now is the time to explore creativity beyond the narrow economic framework. The necessity for rules in response to the increased internet traffic generated by AI tools is becoming more apparent by the day. The thriving AI sector reflects the Indian government's goals. India recognises the critical importance of AI and seeks to establish itself as a "global AI hub." India's role in the Global Partnership for AI (GPAI) exemplifies these global objectives. However, judging India's readiness necessitates considering infrastructure, policy, and public debate.

India is in a critical moment when it comes to AI regulation. The Indian government has alternated between being more conservative and non-regulatory, focussing on reducing user harm. To foster an environment conducive to innovation and perhaps position India as a leader in AI-related technology, the Indian government announced in April 2023 that it will not regulate AI. However, less than two months later, the Ministry of Electronics and Information Technology indicated that India would regulate AI under the Digital India Act[v].

On the other hand, the key points of contention for AI regulation include job displacement and other unanticipated repercussions. According to a recent analysis by the Centre for Policy Research in India[vi], it is vital to account for AI-related job losses, particularly in a labourintensive country such as India. The advancement of Embodied Artificial Intelligence is especially concerning since it may soon allow various types of robots to replace human labour, perhaps leading in a significant loss of jobs.

Concerns regarding potential data misuse arise when pondering the unanticipated effects of AI. Unlike the United States and the European Union, where strict data protection standards are enforced, India lacked comprehensive data protection laws until the Digital Personal Data Protection Act 2023. Nonetheless, the Digital Personal Data Protection Act has shortcomings, particularly when it comes to new technology like artificial intelligence. Because data privacy is critical to the development of artificial intelligence, proponents are advocating for tighter

regulatory safeguards.²³

For India, governing AI is as tough as deciding whether or not to do so. The regulatory landscape is worldwide, and there are continuing disputes inside India over which current regulatory framework to follow and whether to adopt the EU's AI Act or the evolving US AI law. Neither of them appears to be the ideal fit for India. Two factors could render present methods inadequate for India. To begin, India is not at the same level of economic development as the United States or Europe. India should focus more on identifying specific negative effects of AI and developing targeted legislation than on approving an already-existing "all-encompassing" statute that may become obsolete.

Furthermore, India's cultural atmosphere differs from that of other global regions. The need of ensuring that AI regulations align with India's cultural identity and values cannot be overstated. Indian legislators should study previous legal systems that prioritise morality and societal goals, as well as their own legal tradition.

9. CONCLUSION:

In conclusion, the primary legal obstacles faced by performers regarding AI-generated works stem from uncertainties surrounding authorship and ownership. As artificial intelligence continues to advance in its ability to produce content, existing intellectual property laws, which were originally formulated for human creators, find it challenging to resolve issues related to rights and attribution for AI-generated creations. Performers encounter significant hurdles in ensuring that their contributions are acknowledged and safeguarded in a landscape where the distinction between human and machine creativity is increasingly indistinct. This situation presents both difficulties and prospects; on one hand, there is an urgent necessity to revise legal frameworks to embrace new modes of creation, while on the other, there exists an opportunity to develop innovative intellectual property strategies that align with technological progress.

The imperative for legal adaptation is essential to protect performers' rights in this swiftly changing technological environment. The current legal frameworks are inadequate to address the complexities introduced by AI, resulting in protection gaps and the potential for exploitation of performers' contributions. There is a compelling argument for reforming intellectual

²³ Roopkatha Roy, Performers Rights In India Under The Copyright Act, 1957 Vis-A Vis International Instruments: A Critical Analysis, 7(12) JETIR, 1251 – 1255 (2020)

property laws to explicitly delineate the rights of human creators in relation to AI-generated content. Such legal adaptation would not only clarify and safeguard performers' rights but also stimulate further innovation by ensuring that the rights of creators, whether human or AI-assisted, are appropriately acknowledged and enforced.

Hence by establishing a fair and equitable system for performers necessitates a deliberate and progressive approach to legal reform. This entails revising intellectual property laws to mirror technological advancements while ensuring that performers' interests are sufficiently protected. By addressing existing deficiencies and anticipating future changes, it is feasible to create a legal framework that honors the contributions of performers and addresses the unique challenges posed by AI.