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# COPYRIGHT PROTECTION OF DIGITAL CONTENT ON SOCIAL MEDIA PLATFORMS

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## ABSTRACT

*Exponential growth in the number of social media platforms has transformed the creation, dissemination, and consumption of digital content, resulting in complex challenges for copyright protection. User-generated content (UGC), in the forms of posts, reels, memes, and short videos, often incorporates original and derivative works, raising several questions on authorship, ownership, and platform liability that are as yet unresolved. The existing copyright frameworks, which were designed for more conventional creative industries, lack both the regulatory scope and vision to address the fast-paced, collaborative, and borderless nature of online creativity. This study aims at analyzing the strength of protection accorded to digital content on social media platforms by copyright laws, with special emphasis on identifying the legislative and judicial gaps in the Indian context. The main objectives are: to assess whether the current Indian Copyright Act, 1957 effectively protects creators' rights in the digital environment; evaluation of intermediary liability under the Information Technology Act, 2000; and drawing a comparison with the regimes of the United States and European Union. The doctrinal and comparative approach has been employed, whereby statutory provisions, judicial decisions and international instruments such as Berne Convention, TRIPS Agreement and the WIPO Internet Treaties have been analyzed. It is expected that the study will reveal the presence of structural inefficiencies in the administration of existing copyright and point out a lack of clear policy for addressing cross-border infringements and algorithmic content moderation. This study hopes to contribute to the ongoing debate over digital copyright reform in India by providing a balanced regulatory framework that will extend creator protection while maintaining the participatory culture of social media.*

## INTRODUCTION

The development of the internet and the proliferation of social media have dramatically changed the way creative content is generated and disseminated. Platforms like YouTube, Instagram, Facebook, and X allow millions of users to produce and publish music, videos, images, and written works on a daily basis. This participatory model has redefined creativity by making the user both a creator and consumer of content simultaneously, as well as its

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distributor. But that shift has also exposed deep tensions within existing copyright law, which was designed for an age of tangible works and centralized production. The rise of UGC raises some basic questions regarding ownership, originality, and control over creative expression in digital spaces. Traditionally designed to protect the economic and moral rights of creators, copyright law treads an uneasy balance between the interests of the creators and the public. In the digital world, this fine balance has grown ever more fragile. Content is created, shared, remixed, and viewed across borders on social media platforms within seconds, making infringement detection and enforcement phenomenally complex. The Indian Copyright Act, 1957, and its international counterparts, the Berne Convention, and the TRIPS Agreement, provided a sound basis for protection, but have limited clarity when applied to dynamic, collaborative online environments. The introduction of provisions in the Information Technology Act, 2000, concerning intermediary liability and subsequent rules has been a move toward regulating the responsibility of platforms. However, much ambiguity still remains with respect to the extent of such obligations. The importance of the research is in its synergy of law, technology, and creativity. Social media has emerged as an important driver of the digital economy in India, where thousands of creators are dependent on social media platforms for their survival and recognition. However, the inconsistent enforcement of copyright laws, inadequate awareness among users, and lack of information regarding the mechanisms related to content removal have left creators very vulnerable. Addressing these issues is not merely a legal necessity but also a socio-economic one, since it influences the fate of cultural production and digital innovation in India. From experiences in jurisdictions like the United States and the European Union—this work hopes to ascertain the lacunae in the legal regime of India and advance pragmatic proposals for reforms. Finally, the research hopes to contribute to the growing debate on governance of digital copyright by arguing for a balanced regime that would protect creators but still retain the participatory character of the internet.

## LITERATURE REVIEW

The rapid growth of digital technologies and social media has also generated considerable scholarship on whether copyright law is well-equipped to protect creativity online. Early scholarship on copyright in the digital era tended to focus on the problems of technological reproduction and distribution. Works by scholars such as Lawrence Lessig and Yochai Benkler celebrated how digital technologies had given rise to a “participatory culture” where creativity flourished via sharing and remixing, but often in ways that ran counter to traditional copyright norms. Indian scholars like N.S. Gopalakrishnan and V.K. Ahuja have indeed critiqued the architecture of copyright law under the Copyright Act, 1957, but their work too has remained largely concerned with conventional media industries, without quite addressing the challenges raised by UGC in digital contexts.

A major theme in the existing literature has to do with the authorship and ownership of digital content. Works studying practices in the United States and Europe demonstrate how the “terms of service” on social media platforms provide expansive licenses over user content, diluting control by creators. Other papers touch upon fair use and transformation, though there is limited discussion regarding how these doctrines operate in the Indian context. The idea of derivative

and collaborative creation on platforms such as YouTube or Instagram remains under-theorized, particularly with respect to the attribution of moral rights.

Another recurring theme relates to platform liability and enforcement mechanisms. International literature reviews range from the DMCA's "safe harbour" framework to proactive content monitoring duties under the EU's Copyright Directive. Indian jurisprudence itself, as evidenced by *Super Cassettes v. MySpace*, reflects uncertainty in striking a balance between intermediary immunity and rights-holder protection. Scholars note a lack of clarity in India's IT Rules and their interaction with copyright enforcement, leaving creators with few effective remedies.

Despite such scholarship, significant gaps persist. Most studies fail to engage with specific Indian issues relating to enforcement, moral rights of online creators, and the emerging concern of AI-generated works. Comparative doctrinal analysis among the Indian regime and other global regimes is lacking. These lacunae emphasize the need for a doctrinal and comparative study specific to social media content. Theoretically, this study draws upon utilitarian and natural rights theories that stress the need to incentivize creativity while recognizing authorship as an extension of individual labour. It engages the balance theory, hence proposing a middle path which protects the rights of creators without stifling participatory digital culture. Using these frameworks, the research attempts to overcome the hitherto unresolved tension between control and collaboration in today's digital environment.

## CONCEPT AND SCOPE OF COPYRIGHT IN THE DIGITAL AGE

### Evolution of copyright protection

Copyright law initially came into being as an incentive for creativity through granting exclusive rights to authors over their works. Traditionally, this legal framework was designed around tangible media—books, paintings, and music records. But then came digital technology and the internet to redefine the very dimensions of creativity: Content today is produced, reproduced, and disseminated in an instant across jurisdictions, raising challenges to the territorial basis of copyright law.

Section 13 of the Indian Copyright Act, 1957, grants protection to literary, artistic, musical, and cinematographic works, among others.<sup>2</sup> The rights conferred under Section 14—reproduction, communication to the public, and adaptation—have become especially significant in the context of social media platforms where each user act (uploading, sharing, or remixing) potentially implicates these rights.<sup>3</sup>

### Digital Content and User-Generated Creativity

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<sup>2</sup> The Copyright Act, 1957, No. 14 of 1957, § 13 (India), available at <https://www.indiacode.nic.in>.

<sup>3</sup> Id. § 14; see also Oxyzo, Copyright Act, 1957: Guide to All Sections and Laws in India (May 21, 2024), <https://www.oxyzo.in/blogs/copyright-act-of-india-1957-a-comprehensive-guide/104899>.

The concept of "digital content" includes texts, audios, videos, images, and multimedia works created and published on the internet.<sup>4</sup> Social media sites, like YouTube, Instagram, Facebook, and TikTok, democratized creativity by allowing all their users to be producers and consumers of content—something known as "prosumers."

The participatory environment has been blurring distinctions between authorship and reproduction, though. Reposts, memes, remixes, and reels often involve pre-existing works, which raise complex questions of derivative creation and fair use. A 2024 WIPO Report on Social media and Copyright notes that more than 85% of digital infringement disputes around the world relate to unauthorized reproduction or adaptation of online content.<sup>4</sup> However, enforcement has remained inconsistent across different borders, given the complexity and volume of UGC.

## **Copyright and Social Media Platforms: Legal and Technological Challenges**

### **Ambiguities in Ownership and Licensing**

Users, upon posting online, typically give a wide, non-exclusive, and transferable license to the platform in return for its "terms of service."<sup>5</sup> For example, Meta's Terms, 2024, say that users retain copyright but give Meta a worldwide license to use, distribute, and modify their content in operating the service.

This is a contractual arrangement that dilutes effective authorial control. Most users accept these terms without understanding their implications, resulting in what scholars have described as "consensual copyright waivers."<sup>6</sup>

### **Infringement and Enforcement Mechanisms**

Social media's open sharing culture makes the enforcement of copyright arduous. The Copyright Act of India (Sections 51–63) lists infringement redressal measures such as injunctions, damages, and criminal penalties.<sup>7</sup> However, the policing of online violations requires the cooperation of platforms acting as intermediaries.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 mandate due diligence by intermediaries, including grievance redressal mechanisms and content takedown procedures.<sup>8</sup> However, the lack of a clear "safe harbour" model akin to the U.S. Digital Millennium Copyright Act (DMCA) creates uncertainty for Indian platforms.

It is also a landmark precedent that the Delhi High Court decided in *Super Cassettes Industries Ltd. v. MySpace Inc.* where the court ruled intermediaries cannot claim immunity in cases when

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<sup>4</sup> World Intellectual Prop. Org. (WIPO), WIPO Report on Social Media and Copyright 2024 (2024), available at <https://www.wipo.int>.

<sup>5</sup> See *Terms of Service*, META PLATFORMS, INC. (updated Apr. 2024), <https://transparency.meta.com/policies/terms-of-service/>.

<sup>6</sup> Niva Elkin-Koren, *Consent, Contracts, and Copyright: The Unintended Consequences of the Terms of Use Culture*, 34 J. COPYRIGHT SOC'Y U.S.A. 123 (2022).

<sup>7</sup> The Copyright Act, No. 14 of 1957, 51–63, INDIA CODE (2022).

<sup>8</sup> The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, Gazette of India, Feb. 25, 2021.

they are aware of infringing activities and fail to act upon notice.<sup>9</sup> This case highlighted the delicate balance that exists between technological neutrality and active monitoring obligations.

### **Cross-Border Infringement and Jurisdictional Complexity**

Social media content easily crosses national borders, thus rendering traditional enforcement mechanisms inappropriate. Jurisdictional questions where infringement happens and under which law it would fall remain in effect unsettled.<sup>10</sup> Though the Berne Convention of 1886 and the TRIPS Agreement of 1994 favour international harmonization, their principles lack direct enforceability within online spaces.<sup>11</sup> According to a 2023 OECD Digital Trade Report, less than 20% of cross-border copyright complaints result in successful resolution due to jurisdictional and evidentiary barriers.<sup>12</sup>

### **COMPARATIVE ANALYSIS AND EMERGING CHALLENGES**

A comparison among the different copyright systems internationally reveals varied methods of regulating digital content through social media. Although all regimes purport to protect creativity and innovation, there are many procedural mechanisms and philosophies of enforcement that vary significantly.

#### **United States: Notice-and-Takedown Mechanism**

In the United States, for example, the DMCA 1998 forms the cornerstone of its approach, which provides in general a "safe harbour" regime to protect intermediaries from liability so long as they quickly remove infringing content upon notification.

- **Strengths:** Encourages cooperation between rightsholders and platforms, reduces intermediary liability, thus promoting innovation.
- **Limitations:** Over-reliance on automated takedowns leads to censorship of legitimate fair-use material such as satire and commentary; creators often face procedural unfairness and lack recourse against false claims.

#### **European Union: Proactive and Shared Responsibility**

The EU Directive on Copyright in the Digital Single Market (2019/790) creates a shift toward shared responsibility among platforms and users.

- **Strengths:** Article 17 requires licensing obligations and proactive monitoring, thus leading to greater protection of authors.

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<sup>9</sup> *Super Cassettes Indus. Ltd. v. MySpace Inc.*, 2011 SCC OnLine Del 4505 (India).

<sup>10</sup> Graeme Dinwoodie, *International Copyright Law and the Digital Environment*, 55 J. COPYRIGHT SOC'Y U.S.A. 49, 52–58 (2020).

<sup>11</sup> Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as revised at Paris, July 24, 1971; Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.

<sup>12</sup> OECD, *Digital Trade Report 2023*, at 87 (2023), <https://www.oecd.org/trade/digital-trade-report-2023.pdf>.



- **Limitations:** The compliance cost for smaller platforms and the so-called "over-blocking" of user content do give rise to concerns about freedom of expression and proportionality.

### **India: Hybrid but Incoherent Framework**

The model in India brings together elements of both but without procedural coherence. While the Copyright Act, 1957, and the Information Technology Act, 2000 deal with intermediary obligations, they do not provide a codified notice-and-takedown procedure.

- **Judicial Development:** In *Super Cassettes Industries Ltd. v. MySpace Inc.* (2017), the Delhi High Court proscribed blanket immunity from intermediaries by establishing active monitoring upon knowledge of infringement.
- **Practical Gap:** Without statutory reform, creators remain uncertain of remedies while platforms remain uncertain of their obligations.

### **EMERGING CHALLENGES**

1. **Undefined Intermediary Liability:** India lacks uniform statutory standard defining when platforms become liable for user-uploaded infringing content.
2. **Moral Rights in the Digital Context:** The enforcement of authors moral rights to integrity is minimal in algorithmically driven content modifications and remixes.
3. **AI-Generated Works:** With artificial intelligence producing text, music, and visual art, there is ambiguity about authorship and ownership, as Indian law does not yet recognize non-human creators.
4. **Cross-Border Enforcement:** Jurisdictional uncertainty and the lack of international procedural cooperation hinder the resolution of transitional infringement disputes.
5. **Algorithmic Overreach:** automated detection systems like Youtube's Content ID often result in over-blocking, suppressing fair use and transformative works.
6. **Awareness and Accessibility Issues:** Most content creators on Indian social media platforms lack awareness of copyright rights and redressal mechanisms.

In summary, India requires a balanced approach combining the procedural efficiency of the DMCA with the accountability mechanisms of the EU Directive to ensure effective copyright protection while preserving freedom of expression in digital spaces.

### **CONCLUSION**

The digital revolution has reshaped the very nature of creation, authorship, and ownership. It called into question more conventional notions of copyright. Social media sites have gained their place as leading platforms for content creation and dissemination, hosting a culture of participatory creativity with concomitant, unparalleled risks of infringement. The study demonstrated that the current Indian copyright regime, while comprehensive in structure, is fundamentally ill-prepared to handle the dynamic realities of user-generated and

algorithmically distributed content. A comparative analysis would show that while the United States focuses on procedural efficiency by implementing a notice-and-take-down system under the DMCA, the European Union lays emphasis on proactive accountability through Article 17 of the Copyright Directive. India remains at the crossroads because the hybrid system lacks clarity in terms of procedure, mechanisms of technological enforcement, and statutory safeguards for online creators. While the judgment of *Super Cassettes v. MySpace* (2017) was a move forward, it has not been followed up with legislation to address some critical ambiguities. Some of the critical gaps identified by the research are undefined intermediary liability, weak moral rights enforcement, non-recognition of AI-generated works, and lack of redressal mechanisms against online infringement. These issues underline the urgent requirement of a balanced hybrid model that harmonizes innovation with authors' rights and transparency. This legislative reform must codify a structured notice-and-takedown process, strengthen accountability of platforms, and incorporate awareness initiatives among creators. Eventually, the protection of digital content on social media is not only a legal but also a democratic requirement-preserving creative freedom, while making sure creators are duly rewarded. For India to harness the real potential of its digital platform, its copyright legislation must transform itself from a static framework into a dynamic instrument of cultural and technological justice.

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