Page 478 - 487 **DOI:** *https://doi.org/10.63108/IJLMH.13180*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 9 | Issue 6

2026

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The Right to Remain Anonymous: Copyright Enforcement and Pseudonymous Street Art in India

S. SANJAY* AND S. PADMASRI**

ABSTRACT

Street art and wall paintings have become a common form of artistic expression in public spaces. Many street artists create their work using a pseudonym or choose not to reveal their real identity. While copyright law provides protection to original artistic works, anonymity can create practical difficulties when an artist wants to protect or enforce their copyright. For example, if a mural is copied, used for commercial purposes, or shared online without permission, the artist may have to prove that they are the original creator while also trying to protect their identity. This paper examines whether the existing Indian copyright framework is sufficient to protect the rights of anonymous and pseudonymous street artists. It focuses on issues such as proving authorship, ownership of the artwork, registration of copyright, and access to legal remedies without unnecessarily revealing the artist's identity. The paper also examines whether the existing provisions relating to anonymous and pseudonymous works are adequate for the special nature of street art. By identifying the gap between the legal recognition of copyright and the practical difficulties of enforcing it anonymously, the study aims to suggest possible legal and procedural measures that can protect both the artist's copyright and their choice to remain anonymous.

Keywords: *Street Art, Copyright, Anonymous Artists, Pseudonymous Works, Copyright Enforcement*

I. INTRODUCTION

Street art is made in public, at times for the public, and mostly without the consent of wall owners. Many of its makers work under a tag or pseudonym, and some never link that name to a legal identity. Scholars observe that murals are often created illegally and that anonymity and pseudonymity are common in these communities.[1]

The problem arises when the work is taken. A brand may reproduce the mural on a hoarding. The Delhi High Court met this situation in *St+art India Foundation v. Acko General Insurance*

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[1] Enrico Bonadio, Magali Contardi & Siri-Helen Egeland, *Can Artists Enforce Copyright While Remaining Anonymous? Some Reflections from a Street Art and Graffiti Perspective*, 2024 INTELL. PROP. Q. 297, https://tind.wipo.int/record/59371?ln=en.

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Ltd., where a mural had been used in an insurer's online advertising and the court directed that the posts be taken down.[2] The claimants there were an arts foundation and a named muralist, so identity was never in question. For an artist who deliberately withholds their name, the harder question is how authorship can be asserted before a court without ceasing to be anonymous.

Indian law starts from a position that favours the artist. Copyright subsists in an artistic work, which includes a painting whether or not it has artistic quality,[3] and the enjoyment of copyright does not depend on registration.[4] Yet a right that can be asserted only by giving up one's privacy is of limited practical value. The topic therefore tests whether a legal system that protects anonymous and pseudonymous works also supplies the means of enforcing them, a question that bears on artists' creative freedom, on their privacy, which the Supreme Court has recognised as a fundamental right,[5] and on whether the commercial misuse of public art can be checked.

To the researcher's knowledge, no reported Indian decision addresses whether a pseudonymous street artist may sue without disclosing a legal identity. A recent comparative article on the question observes that copyright statutes are generally unclear on the point and that case law specific to street artists is scarce.[6]

Indian copyright law protects anonymous and pseudonymous works in substance. Copyright arises on creation, the Act contemplates works published under a pseudonym, and it fixes a term for them.[7] What it does not do, on the researcher's reading, is provide a route by which such an author can enforce the right without being identified. The registration form asks for the author's name, address and nationality;[8] the substitute representative that the Act recognises, the publisher, presupposes an industry in which works pass through publishers;[9] and the ordinary rules of civil procedure expect a plaintiff to be named.[10] The problem is whether this leaves pseudonymous street artists with rights that exist but cannot be exercised and, if so, how the law should change to respect both copyright and anonymity.

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[2] *St+art India Foundation v. Acko General Insurance Ltd.*, CS(COMM) 822/2023, 2023 SCC OnLine Del 7277 (Del. HC Nov. 10, 2023) (India).

[3] The Copyright Act, No. 14 of 1957, INDIA CODE (1957), §§ 2(c)(i), 13(1)(a), https://copyright.gov.in/documents/copyrightrules1957.pdf.

[4] Copyright Act § 45(1); Berne Convention for the Protection of Literary and Artistic Works art. 5(2), Sept. 9, 1886, as revised at Paris July 24, 1971, 1161 U.N.T.S. 3, https://www.unido.org/sites/default/files/2014-04/Berne_Convention_for_the_Protection_of_Literary_and_Artistic_Works_28.09.1979_0.pdf.

[5] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

[6] Bonadio, Contardi & Egeland, *supra* note 1.

[7] Copyright Act §§ 13(1)(a), 23, 54(b).

[8] The Copyright Rules, 2013, r. 70 & Form XIV (Statement of Particulars) (India), https://copyright.gov.in/Documents/Copyright_Rules_2013_and_Forms.pdf.

[9] Copyright Act § 54(b); Berne Convention, *supra* note 4, art. 15(3).

[10] The Code of Civil Procedure, No. 5 of 1908, INDIA CODE (1908), O. VII, r. 1(b), https://www.indiacode.nic.in/indiacode/bitstream/123456789/2191/1/A190805.pdf.

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This paper examines whether the existing Indian copyright framework is sufficient to protect the rights of anonymous and pseudonymous street artists. The research is doctrinal: the Act is read as the life-cycle of a claim (subsistence, registration, presumptions, pleading and proof, moral rights, duration), asking at each stage whether the provision requires, permits or penalises disclosure of identity, with Articles 7(3) and 15 of the Berne Convention as an external benchmark.[11]

II. Literature Review

The scholarship falls into three groups. The first group asks directly whether anonymous artists can enforce copyright. Bonadio, Contardi and Egeland weigh the arguments for and against giving anonymous authors enforcement rights, examine how the Berne Convention treats anonymous and pseudonymous works and the role it gives to publishers and similar entities, and then survey selected jurisdictions.[12] Their survey, as far as the researcher could establish, does not extend to India.[13] An earlier note by Bonadio, drawing on semi-structured interviews with street artists and writers, considers whether unsanctioned work deserves protection at all and how artists themselves regard copyright.[14] These works explain the problem but focus on comparisons rather than Indian law.

The second group uses Banksy as a case study in avoiding copyright. Bonadio and Jean-Baptiste note that a copyright claim brought through Banksy's corporate representative would have required it to show that it had acquired the rights from the artist, and link Banksy's aversion to copyright to his need for anonymity; on their account the EUIPO took note that the resulting reliance on trade marks came close to an attempt to circumvent copyright law.[15] Johnson reads the same history as resting on the premise that copyright cannot be used without sacrificing anonymity, and then asks whether that premise holds.[16] These contributions draw on EU and US material, and trade mark protection is no general answer for street artists, since it cannot substitute for attribution or integrity.

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[11] Berne Convention, *supra* note 4, arts. 7(3), 15.
[12] Bonadio, Contardi & Egeland, *supra* note 1.
[13] *Id.* (identifying the United States, Canada, Australia, the United Kingdom and France among the jurisdictions examined).
[14] Enrico Bonadio, *Graffiti, Street Art and Copyright*, 4 Street Art & Urb. Creativity 76 (2018), https://visualcompublications.es/SAUC/article/view/5549.
[15] Enrico Bonadio & Olivia Jean-Baptiste, *Banksy's Battle with Trade Mark Law: The "Flower Thrower" Case*, Nuart J., vol. 3, no. 1 (2021), https://nuartjournal.com/issues/banksy-s-battle-with-trade-mark-law-the-flower-thrower-case/banksy-s-battle-with-trade-mark-law-the-flower-thrower-case.
[16] Dallin Johnson, *Copyright Might Be for Banksy*, 13 Berkeley J. Ent. & Sports L. 1 (2024), https://lawcat.berkeley.edu/record/1290209/files/Johnson_Final%20Manuscript_Formatted%20cropped.pdf.

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The third group concerns moral rights in India. Sundara Rajan's two-part study traces moral rights in the Indian statute and their judicial development, arguing that they can serve culture in developing countries and critiquing a trend towards narrower treatment.[17,18] Her case note on *Amar Nath Sehgal v. Union of India* connects the integrity right to the protection of cultural heritage.[19] It does not address concealed identity.

The gap is therefore specific. The comparative literature asks the question about anonymity but not of Indian law, and the Indian literature on moral rights does not ask it. No work reviewed examines how the Indian provisions on registration, presumptions, procedure, moral rights and term interact for a pseudonymous mural artist. This paper attempts that task.

III. Findings

Stage	Provision	Treatment of identity	Assessed risk to anonymity
Subsistence and ownership	ss 2(d)(iii), 13, 17	No disclosure required; the artist is author and first owner	Low
Registration	s 45; r 70; Form XIV	Author's name, address and nationality requested; applicant signs personally	High
Presumption and standing	s 54(b); Berne art 15	Publisher stands in for a hidden author; no equivalent for a pseudonym on the work	Medium to high: murals have no publisher
Pleading and proof	CPC O VII r 1(b); s 62(2)	Plaintiff must be named and residence pleaded	High
Moral rights	s 57	Right to claim authorship; integrity requires prejudice to honour or reputation	Medium
Duration	s 23	Shorter term unless identity is disclosed	Medium (structural incentive)

Table 1: Points at which Indian law engages the identity of a pseudonymous street artist

A. Subsistence and ownership

Nothing in the Act makes subsistence or first ownership depend on the author being named. The artist who paints a mural is the author, and the author is the first owner unless the work was

[17] Mira T. Sundara Rajan, *Moral Rights in Developing Countries: The Example of India, Part I*, 8 J. Intell. Prop. Rts. 357 (2003), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1816203.
[18] Mira T. Sundara Rajan, *Moral Rights in Developing Countries: The Example of India, Part II*, 8 J. Intell. Prop. Rts. 449 (2003), https://nopr.niscpr.res.in/bitstream/123456789/4911/1/JIPR%208(6)%20449-461.pdf.
[19] Mira T. Sundara Rajan, *Moral Rights and the Protection of Cultural Heritage: Amar Nath Sehgal v. Union of India*, 10 Int'l J. Cultural Prop. 79 (2001), https://artlawpodcast.com/wp-content/uploads/2021/03/Sundara-Rajan-IJCP-10.1-05.pdf.

made in the course of employment.[20] A pseudonymous artist has the same rights in copyright as any other artist.

B. Registration

Registration is optional, but the Register is *prima facie* evidence of the particulars entered in it.[21] The applicant must sign the form personally and give notice to anyone who disputes their claim. The application must be submitted in Form XIV, which requires the author's name, address and nationality and details of any assignment or licence.[22] If no objection is received within thirty days, the Registrar may proceed with the application.[23] As the researcher reads them, neither the Rules nor the form allow a pseudonym to be recorded with the real identity held in confidence.

C. Presumptions and standing

The Berne Convention presumes that the person whose name appears on a work in the usual manner is its author, and this extends to a pseudonym that leaves no doubt as to identity. For other anonymous and pseudonymous works it treats the named publisher as representing the author, with standing to enforce the author's rights until the author reveals their identity.[24] The Indian position is more limited. Section 54(b) treats the publisher as the owner of copyright for the purposes of civil remedies until the author's identity is disclosed publicly by author and publisher or otherwise established to the satisfaction of the adjudicating authority.[25] Section 55(2) presumes that the person whose name appeared on an artistic work when it was made is its author,[26] but the researcher has not located in the Act an express presumption equivalent to Article 15(1) for a consistently used pseudonym, or any representative other than the publisher.

D. Pleading and proof

A suit must name the plaintiff and state their residence, which also founds jurisdiction where the plaintiff sues in the district court of their own residence.[27] In *St+art India Foundation* the plaintiffs were a foundation and a named muralist, and the foundation's standing rested on an agreement with the artist under which, as pleaded, rights in the mural vested in the plaintiffs.[28]

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[20] Copyright Act §§ 2(d)(iii), 17.
[21] Copyright Act §§ 44, 45, 48.
[22] Copyright Rules, 2013, Form XIV, Statement of Particulars.
[23] Copyright Rules, 2013, r. 70(3), (9), (10); COPYRIGHT OFFICE, *General Instructions* to Form XIV, https://copyright.gov.in/Documents/Copyright_Rules_2013_and_Forms.pdf.
[24] Berne Convention, *supra* note 4, art. 15(1), (3).
[25] Copyright Act § 54(b).
[26] Copyright Act § 55(2).
[27] Code of Civil Procedure, 1908, O. VII, r. 1(b); Copyright Act § 62(2).
[28] *St+art India Foundation*, 2023 SCC OnLine Del 7277; FOX MANDAL, *Copyright Infringement: Ad with "Humanity" Mural to be Removed* (Dec. 4, 2023), https://foxmandal.in/news/copyright-infringement-ad-with

The Delhi High Court recorded that the defendant had agreed to remove its posts and directed their removal within 72 hours.[29] Because that was an interim direction following the defendant's agreement, it does not settle how the public-place exceptions in section 52(1)(t) and (u) apply to murals, given that section 52(1)(t) is worded in terms of sculpture and other artistic work under section 2(c)(iii), not paintings.[30]

E. Moral rights

Section 57 gives the author, independently of copyright and even after assignment, the right to claim authorship and the right to restrain, or claim damages for, distortion, mutilation, modification or other acts that would prejudice honour or reputation.[31] In *Amar Nath Sehgal* the Delhi High Court gave these rights a robust reading in the context of a mural, treating them as attached to the author and independent of ownership of the physical work.[32] The right is one to claim authorship, so the statute neither compels the claim nor expressly protects a decision not to make it. And the integrity right requires prejudice to honour or reputation, which an artist working under a pseudonym can show only by proving that the persona has a reputation capable of being harmed.

F. Duration

For an artistic work published anonymously or pseudonymously, copyright runs for sixty years from the beginning of the calendar year after first publication; where the author's identity is disclosed within that period, the term is instead measured from the author's death.[33]

IV. Discussion

A. A mismatch between substance and procedure

The central finding is a mismatch. Substantive law is neutral about identity, but enforcement is not: registration, pleading and proof each draw the author into view, and the one device the Act offers to stand in for a hidden author, the publisher, is borrowed from the book trade. Studies of other legal systems point out that laws rarely clarify whether anonymous authors can sue for copyright infringement.[34] Indian law thus protects anonymity in form and discourages it in

-humanity-mural-to-be-removed.

[29] *St+art India Foundation*, 2023 SCC OnLine Del 7277; *Delhi High Court Directs Acko General Insurance to Take Down Social Media Listings Displaying "Humanity" Mural of St+Art India Foundation*, SCC Online Blog (Nov. 22, 2023), https://www.scconline.com/blog/post/2023/11/22/dhc-acko-general-insurance-social-media-listings-humanity-mural-start-india-foundation-legal-news/.

[30] Copyright Act §§ 2(c), 52(1)(t)–(u).

[31] Copyright Act § 57(1).

[32] *Amar Nath Sehgal v. Union of India*, 2005 SCC OnLine Del 209, (2005) 30 PTC 253 (Del) (India).

[33] Copyright Act § 23.

[34] Bonadio, Contardi & Egeland, *supra* note 1.

practice: an artist may remain unnamed, but only by forgoing the advantages the system attaches to a known claimant.

B. The publisher-shaped gap

Section 54(b) and Article 15(3) assume that someone identifiable is attached to the work and can speak for its author. For books that person exists; for a mural there is often no publisher at all. A work is published when it is made available to the public, and communication to the public includes making a work available to be seen by means of display.[35] A mural painted in a public place may count as published, even if no separate publisher is involved. A festival organiser or commissioning body might qualify, but that reading is untested. The provision is therefore either inapplicable or unpredictable for street art.

C. Intermediaries as a partial remedy

The *St+art* litigation suggests a pragmatic response: the artist contracts with an organisation that holds the rights and sues in its own name, so that a known corporate claimant seeks urgent relief while the artist stays in the background. The limits are clear. An assignment must be in writing and signed by the assignor, so the organisation must know who the artist is.[36] The model also covers economic rights only: section 57 rights remain with the author even after assignment, so the organisation cannot hold or enforce them in its own right.[37] Finally, the model suits commissioned festival work and does little for unsanctioned artists, who have no organiser to contract with.

D. Moral rights and the pseudonymous persona

The reasoning in *Sehgal* supports a generous reading of section 57 for pseudonymous artists. The court treated moral rights as personal to the author and as serving a wider public interest in cultural heritage, a rationale that Sundara Rajan has defended and that applies with force to public murals.[38] Article 6*bis* of the Berne Convention likewise protects the rights to claim authorship and to object to prejudicial treatment without making either depend on disclosure.[39] The better reading is therefore that a pseudonymous artist can claim authorship under the pseudonym and seek relief where the persona's reputation is harmed. Whether courts will accept a persona's reputation as the honour or reputation protected by section 57 is untested, and that uncertainty is itself a deterrent.

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[35] Copyright Act §§ 2(ff), 3.
[36] Copyright Act § 19(1).
[37] Copyright Act § 57(1) (the rights subsist "even after the assignment").
[38] Sundara Rajan, *Moral Rights and the Protection of Cultural Heritage*, *supra* note 19; *Amar Nath Sehgal*, 2005 SCC OnLine Del 209.
[39] Berne Convention, *supra* note 4, art. 6*bis*(1).

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E. Term as an incentive to unmask

The sixty-year term for undisclosed authorship, measured from publication, is shorter than the term that follows disclosure and so rewards the artist who steps forward. The Berne Convention permits this: it fixes a term running from publication for anonymous and pseudonymous works but applies the ordinary term where a pseudonym leaves no doubt as to identity.[40] The logic is sound where nobody can tell when the author died, but weaker where a registry or court holds the identity under seal. Banksy's example shows the distortion: Bonadio and Jean-Baptiste link his reliance on trade marks to the need to preserve anonymity and note that such rights can last indefinitely, which sits uneasily with the copyright principle that works eventually enter the public domain.[41]

F. Competing interests

Defendants have the right to question whether the person making the claim is the actual author. Accepting pseudonymous claims without proper verification could also lead to fraud. Unsanctioned work raises a further objection, that an author who creates through a wrongful act should not obtain the law's help; Bonadio and Jean-Baptiste report that the EUIPO acknowledged that argument in the Banksy dispute, while themselves noting that placing a work in public does not mean the artist surrenders copyright.[42] Artists should be allowed to prove authorship confidentially without publicly revealing their identity, protecting both their copyright and their privacy.[43]

V. Conclusion

This paper asked whether the Indian copyright framework suffices to protect anonymous and pseudonymous street artists who wish to enforce their rights without revealing their identity. The answer is that it is sufficient in substance and insufficient in procedure.

The Act does not require disclosure of identity for copyright to subsist or vest in the artist, but section 54(b) offers a publisher-based representative that fits murals poorly, and registration practice and civil procedure impose a disclosure the substantive law does not demand. Section 57 can plausibly be exercised under a pseudonym, though the integrity right depends on proof of a reputation attached to the persona. The shorter term under section 23 operates as an incentive to unmask that is hard to justify where identity can be verified in confidence. Reform is therefore needed in rules and procedure more than in principle.

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[40] Berne Convention, *supra* note 4, art. 7(3).
[41] Bonadio & Jean-Baptiste, *supra* note 15.
[42] Bonadio & Jean-Baptiste, *supra* note 15.
[43] *Puttaswamy*, (2017) 10 SCC 1.

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The study met its aim within its doctrinal limits. Its predictions on how courts would treat a pseudonymous plaintiff remain untested because no Indian decision has addressed the point. What the findings do show is that the real threat to a pseudonymous street artist's copyright is not that the law denies it but that it makes the right costly to use.

VI. Suggestions and future directions

A. Suggestions

i. Confidential registration

The Copyright Rules, 2013 should be amended so that Form XIV allows the author to be recorded under a pseudonym, with the real name, address and nationality placed in a restricted-access annexure held by the Registrar. The applicant would verify identity to the Registrar by affidavit, and the annexure would be disclosed only on a court order.[44]

ii. Representative standing

Section 54 should be extended, in line with Article 15 of the Berne Convention, in two ways: a presumption that the person whose consistently used pseudonym appears on or near the work is its author, and a power to register a named representative, such as a lawyer or arts organisation, who may sue while the identity remains confidential.[45]

iii. Term of protection

Section 23 should be amended so that identity established to the Registrar in confidence entitles the artist to the ordinary term. This is consistent with the Berne Convention, which sets minimum terms and itself applies the ordinary term where identity is not in doubt.[46]

iv. Procedure for pseudonymous plaintiffs

High Courts hearing intellectual property suits should adopt a practice direction allowing a plaintiff to sue under a pseudonym on proof of a genuine need for anonymity, disclosing identity to the court in a sealed affidavit, with limited access for named counsel under undertakings. The test should be one of proportionality, balancing the artist's privacy against the defendant's right to contest authorship.[47]

[44] Copyright Rules, 2013, r. 70 & Form XIV.
[45] Berne Convention, *supra* note 4, art. 15(1), (3); Copyright Act § 54(b).
[46] Copyright Act § 23; Berne Convention, *supra* note 4, art. 7(3).
[47] *Puttaswamy*, (2017) 10 SCC 1.

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v. Evidence and contractual practice

Pending reform, artists can lower the evidential cost of anonymity by using a consistent tag, keeping dated records of the work, and lodging a sealed record of identity with a lawyer. Electronic records of this kind are admissible subject to the conditions in section 63 of the Bharatiya Sakshya Adhiniyam, 2023.[48] Organisers who commission murals should leave the artist's section 57 rights untouched and allow enforcement in the organiser's name without compelling disclosure.[49]

vi. Clarifying the public-place exception

Parliament or the courts should clarify whether section 52(1)(t) extends to paintings, since uncertainty on that point raises the cost of every enforcement action, anonymous or not.[50]

B. Future directions

Future research should proceed on four fronts. First, semi-structured interviews with Indian street artists, of the kind Bonadio used earlier, would show whether the proposed safeguards would be used and what confidentiality artists need.[51] Second, a study of how the Copyright Office operates in practice would test the researcher's reading of the Rules. Third, comparative work should examine how the jurisdictions surveyed by Bonadio, Contardi and Egeland handle verification.[52] Fourth, any future Indian decision on an anonymous or pseudonymous plaintiff, and any final ruling on the public-place question for murals, should be analysed as it emerges.

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[48] The Bharatiya Sakshya Adhiniyam, No. 47 of 2023, INDIA CODE (2023), § 63.
[49] Copyright Act § 57(1).
[50] Copyright Act §§ 2(c), 52(1)(t); *St+art India Foundation*, 2023 SCC OnLine Del 7277.
[51] Bonadio, *supra* note 14.
[52] Bonadio, Contardi & Egeland, *supra* note 1.

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