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Moral Rights and their Position in the Digital World: An Appraisal

SHARIQA MEHMOOD¹

ABSTRACT

This paper examines the theory and purpose of moral rights and explores moral rights in the digital context. By mistreating the author's work, the idea of moral rights seeks to save him from experiencing the moral, intellectual, or spiritual repercussions. The concept of moral rights is challenged in three different ways by the digital age. The principal type of legal control guiding emerging technology is now copyright law. Second, there may be conflicts between modern technologies and artistic production. For instance, a computer programme that creates art is also one that is protected by copyright laws as a literary work. Third, new technological advancements have also made it feasible for the general people to participate in artistic creations in a novel way, introducing subtle and undetectable changes. The effect of digital technology on authors' moral rights is the subject of this essay. Due to the ability to copy, modify, and distribute works of art using information technology, it is extremely difficult for authors to control how their works are used and, when problems arise, to preserve their moral rights. Despite these issues, this essay argues that because of modern technologies, moral rights are actually becoming more significant. Just as the power to alter works is at its greatest, issues about creative integrity and the preservation of cultural heritage become more important. This paper contends that the development of technology demands a new understanding of moral rights, one that emphasises future cooperative efforts between authors and their audience to preserve culture. Technology has the impact of "democratising" author-audience connection by allowing for closer audience-author collaboration during the creative process. Despite the possible threat to artistic integrity, authors and artists should accept this transition due to the long-term advantages it will bring to cultural life. Modern technologies raise questions about the applicability of established moral rights doctrine, law, and practises because they are based on the same principles that underpin defending moral rights. Notably, the digital era has given rise to new ways to create artistic works as well as the possibility of new sorts of works, themselves, which has challenged our conception of authorship, creative activity, and their interrelationship. This paper makes an effort to illustrate the challenges that moral rights encounter in the modern digital environment.

¹ Author is a Research Scholar at Department of law, Aligarh Muslim University, Aligarh, India.

Keywords: *Digital Age, copyright law, artistic creation, Moral Rights, Author's Special Rights, Copyright, and Digital Environment.*

I. INTRODUCTION

The aim of moral rights law is to protect the non-commercial interests of creative authors. The breadth of moral rights provisions, which have long been recognised in copyright regulations all across the world, goes beyond the general legal goal of defending authors' right to a living as writers. The moral rights theory, on the other hand, is based on the idea that creative activity is fundamentally personal, leading to a privileged relationship between an author and his work. Moral rights are typically defined as the author's "non-economic," "non-proprietary," or "personal" rights. The economic growth, political stability, and social advancement of a nation are significantly influenced by its residents' inventiveness. If progress is to continue, national innovation must be supported. A nation's cultural wealth can be strongly predicted by how well cultural works are preserved. Intellectual property legal protections are a crucial tool for preserving and presenting America's rich cultural heritage for future generations. The safer writers feel, the more likely they are to put pen to paper. The more secure they feel, the more inclined authors are to sit down and write. The magnitude of a nation's intellectual output is a crucial determinant of its position in the world. Every country has copyright laws in place to safeguard the cultural accomplishments of its residents because of this. Moral rights have already been significantly impacted by the technological advancements of the late 20th and early 21st centuries. The conditions for producing, disseminating, consuming, and using artistic works change as a result of new technologies. The 'digital' revolution has perhaps the most intriguing implications for how art is created through technology. The way that knowledge is treated in the 'digital' age has profoundly changed the nature of artistic creations, enabling nearly anybody with access to a computer to alter the content of an artwork and have those modifications seamlessly meld with the original design. Authors are no longer able to meaningfully oversee how their works are being used due to the widespread accessibility of such alteration techniques. They may only be aware of the most widely reported interpretations of their work, which may only account for a small fraction of the interactions between a creative work and its audience.

The author has certain rights as outlined in Section 57² of the Copyright Act of 1957. Most of these special rights derive from Article 6 bis³ of the Berne Convention. The Act creates legally-

² The Copyright Act, 1957, (Act 14 of 1957), s.57

³ The Berne Convention 1886, *available at*: <http://www.law.cornell.edu/treaties/berne/6bis.html> (Visited on

binding paternity and integrity protections. Author's Special Rights, or "Moral Rights," are defined in Section 57⁴ of The Copyright Act, 1957. Based on Article 6bis of the Berne Convention, 1886, the author of the work shall have the following rights:⁵

(1) Right to assert that one is the author of a work (also known as Rights of Attribution or Paternity Rights; and

(2) "Integrity Rights" refer to the prohibition on "distortion, modification, or mutilation of one's work" if such distortion or mutilation would be detrimental to the author's honour or reputation.

Moral Rights (also known as Author's Special Rights⁶; the term "Moral Rights" is used here) refer to the section of copyright law that places authors' status above monetary benefits. The sale of a work does not negate the author's claim to be compensated for the moral rights inherent in creating that work. These rights belong to authors in addition to any monetary compensation they may get. This notion of autonomy is central to the concept of moral rights. After the Berne Convention was ratified in 1886, the concept of moral rights gained increased prominence on the international legal horizon. Before moral rights law could evolve, a number of challenges had to be overcome, the majority of which were born in the United States of America. Two significant turning points in the development of moral rights are the signing of the Universal Copyright Convention and the Trade Related Intellectual Property Rights Agreement as well as their further growth through inclusion in the WIPO Internet Treaty.

II. MEANING AND CONCEPT OF MORAL RIGHTS

A clause in copyright law known as "moral rights" protects the author's "non-economic, personal, or spiritual interest" in his or her work. The common understanding of moral rights maintains that authors of copyrightable works have inalienable rights in their works to protect their moral and personal interests, in addition to the set of economic rights that are normally granted to copyright holders in all jurisdictions. The Moral Rights doctrine is premised on the idea that creators have certain rights in the⁷ integrity of their work that transcend the protection of economic rights. An artistic creation is not merely a product that can be bought and sold but rather it is direct⁸ reflection on the authors personality, identity, and even his or her 'creative soul'. These safeguards are frequently seen as fundamental human rights or personal freedoms

February 13, 2023).

⁴ The Copyright Act, 1957, (Act 14 of 1957), s. 57

⁵ Prof. (Dr) M. K. Bhandari, *Law relating to intellectual property rights* 43 (Central law publications, Allahabad, 3rd edn, 2014).

⁶ The term 'moral rights' derives from the French expression 'droit moral'.

⁷ Ihyung Lee, *Toward an American Moral Rights in Copyright*, (2001) 58 Wash and Lee L. Rev. 795, 801.

⁸ Neil Netanel, *Copyright Alienability Restrictions and the Enhancement of Author Autonomy: A Normative Evolution*, (1993) 24 Rutgers L.J. 347, 402-03.9(1) DLR (2017)

since they take into account the author's identity and how that identity is reflected on a work of art or other creative activity. By ensuring that future performances or transmissions give due credit to the original inventor and do not change the intent or key features of the invention, moral rights give authors control over their creative projections. The copyright laws do not apply to this privilege. A writer can sell the rights to their creation and stop others from making money off of it. However, the author will still be able to defend the integrity of his work during readings and broadcasts by using his moral rights.

Section 57 of the Copyright Act of 1957 recognises the moral rights of the inventor. The basis for this provision is Article 6bis of the Berne Convention of 1886. The author of a copyright work has the following exclusive rights:

- (a) to take credit as the "author"; and
- (b) any "alteration, mutilation, modification, or other act in relation to the said work" that is done before the expiration of the copyright period if such an act would be detrimental to his honour or reputation, and to prohibit such an act or seek damages in such an instance.⁹

Moral rights apply to

- Creative works of literature, including the vast majority of "written works" and "computer programmes."
- Innovative works including paintings, drawings, plans, and photography.
- Musical works
- Dramatic writing, including plays and screenplays. Both "feature films" and "documentaries" shot on the cinematograph.

Moral rights represent the inherent rights that an artist has over his or her works. When a work is protected by a copyright, the creator has exclusive legal rights that cannot be sold or otherwise transferred.¹⁰

III. MORAL RIGHTS IN THE DIGITAL AGE

Moral rights continue to reflect significant social ideals in the Digital Age, notwithstanding the problems that new technologies pose to writers' moral concerns. The attempt to balance technical advancement and cultural continuity has given rise to new and unexpected forms of moral rights. The concept of moral rights has evolved significantly from its conventional

⁹ P.Narayan, *Intellectual property law* 346 (Eastern Law House, Calcutta, 3rd edn, 2009).

¹⁰ Available at: Info@copyright.org.au (Visited on July 20, 2023).

theoretical roots in fixed concepts of authorship, the creative work, and creativity to become associated with larger cultural policy goals in various parts of the world¹¹. These developments imply that moral rights themselves are undergoing change. Fundamentally, for moral rights to succeed in the digital age, the creative process must be able to accommodate the new dimensions that technology has introduced. It is clear that the use of digital technologies makes it challenging for creative authors to maintain control over how their work is used and how it is distributed. It is equally obvious, though, that the creative drive has access to incredible new chances thanks to new technologies. Technology provides a seemingly endless source of novel ways to create and, more importantly, novel approaches to thinking about creativity. Additionally, it denotes an increasing ability to communicate with a worldwide audience without being constrained by traditional time and geographical constraints. The supposed negative effects of new technology on authors may, in large part, be the result of an antiquated perception of authors' contributions to the creative process. The power dynamic between authors and their audiences has been irreparably changed by digital technology. Today, public awareness and goodwill are just as important to the preservation, diffusion, and proper treatment of creative works as the creators' own initiative¹².

As JAL Sterling observes:

“At the end of the day, copyright will only survive because the public wants it, and knows it wants it, and knows its value. The challenge to the copyright lawyer is therefore not only to forge solutions to the philosophical and legal problems [confronting copyright] ... but to contribute to public education in every possible way”¹³.

The ability to be creative has never been easier because to technology advancement. Technology gives the public access to tools for modifying works of art in ways that have hitherto been mostly unknown. The issue of adopting and enforcing moral rights in this setting is that they have grown to depend heavily on the goodwill of the art-appreciating public. The moral interests of authors have become freshly dependent on public awareness and understanding. In the digital age, there is no longer a hierarchy in the interaction between creator and audience. Instead, the work and the abstract concept that it represents, creativity, have brought together the interests of authors and audiences¹⁴.

¹¹ Available at: <https://ssrn.com/abstract=1808306> (Visited on July 22, 2023).

¹² *Ibid.*

¹³ An overview of these concerns is provided by JAL Sterling ‘Philosophical and legal challenges in the context of copyright and digital technology’ *International Review of Industrial Property and Copyright Law* Vol 31, p 525, 2000.

¹⁴ *Ibid.*

It is this new relationship that is correcting the way their work is treated and the terms of its distribution. It is equally obvious, though, that the creative drive has access to incredible new chances thanks to new technologies. Technology provides a seemingly endless source of new means to create and, more importantly, new perspectives on creativity. It also signifies a growing potential to reach a global audience—freedom from the conventional limits of time and space. To a great extent, the perceived disadvantages to authors generated by new technologies may be due to an anachronistic understanding of authors' role in the creative process. Digital technology has irrevocably altered the balance of power in the relationship between authors and their public. Today, public awareness and goodwill are just as important to the preservation, diffusion, and proper treatment of creative works as the creators' own initiative. According to JAL Sterling, moral rights will have fresh life and conceptual sophistication in the Digital Age by reflecting a more democratic vision of culture. The protection of moral rights shall extend to the blossoming and fruition of creative genius in all of its manifestations, as well as to the individual author¹⁵.

IV. MORAL RIGHTS IN NEW TECHNOLOGIES

New categories of creative works, technological creations utilising cutting-edge methods, currently recognised as copyrightable technology creations, or a combination of these? In truth, international copyright procedures have paid little attention to the issue of moral rights in these novel forms of human creativity. Instead, this area of copyright law is underdeveloped on a global scale, which is seen in how little attention it receives in most national copyright regimes. The continued disregard for moral rights issues in information technology as a result could eventually have negative effects on the conceptual, legal, and practical levels.

Many of the fundamental principles that support artistic heritage are put to the test by the technologies of the digital age, which have a profound impact on the creative arts. Modern technologies raise questions about the applicability of established moral rights doctrine, law, and practices because they are based on the same principles that underpin defending moral rights. Notably, the Information Age has led to new ways for artistic works to be produced as well as the possibility for new types of works, which has challenged our understanding of authorship, creative activity, and their relationships.

V. RECENT TECHNOLOGIES FOR CREATION

As a result of recent technological breakthroughs, there are currently numerous tools accessible

¹⁵ *Ibid.*

that can be employed in the creation of artworks. The development of dictation software, which enables text to be transcribed directly from dictation by a computer, is a modern example of a technology that has historically been utilised to promote creative expression. In other cases, utilising cutting-edge technology results in a material change in the final product, as is the case with recently developed techniques for creating and reproducing sounds, colours, and images. It's intriguing to note that authors and artists haven't completely embraced the range of opportunities made possible by the advent of the digital age. All of this cutting-edge technology stands in the way of the author's finished work of fiction. The act of creating the work, however, may fundamentally alter the relationship between the creator and the final product, depending on the nature and extent of the intervening technology. Moral rights are predicated on the supposition that the author and the creative work are inseparably linked. However, this connection can become weaker in places where technology is important. Modern technology has made it possible to create previously unimaginable types of art. The basic principles of copyright law can be difficult to meet when dealing with digitally created works like "multimedia" works. When do multimedia works that incorporate previously published text, images, or sound cease to be deemed "original"? Do contemporary technical art forms adequately reflect the uniqueness of its creators, just like more conventional art does? If their works are appropriated or changed, would the author feel the same impact as a conventional author¹⁶?

The Problems of Authorship

The greatest danger that digital technologies represent to moral liberties is at the level of written expression. People involved in the arts at all levels, in particular, struggle with identity issues¹⁷.

Programmer as Author

When using programming technology to produce an artistic work, a computer programmer may be considered a "author." But does the programmer match the author's ideal of a free-thinker whose creations show original, creative genius? The work of a programmer appears intuitively distinct from that of an artist, especially if it is the result of electrical impulses that are, in some ways, self-replicating. However, a maker is necessary for moral rights. If we cease thinking of the coder as the author, who will step into this position? Without human connection, it is unclear how a computer or software impulse might be connected to authorship¹⁸.

¹⁶ RajanSundara T. Mira, Moral Rights in Information Technology: A New of 'Personal Right'? (2004) Vol. 12 No. 01 International Journal of Law and Information Technology at 49.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

Performer as Author

What function do you believe the law would assign to this person if the creation of an electronic work of art requires the hiring of a human being, such as to modify the programme or do specific tasks? Does he appear in the show as an actor or did he collaborate on its writing with another writer? In today's linked world, the lines between performer and writer identities are increasingly blurring. This tendency is influenced by a number of cultural and technological reasons, including the increasing significance of live performance as a stand-alone artistic endeavour and the influence of technology on the creative process. The WIPO Performances and Phonograms Treaty (WPPT) of 1996, which went into effect in the middle of 2002, is the most recent international law on copyright in performances and reflects this development. Similar to how Article 6bis of the Berne Convention established moral rights for original authors, Article 5 of the WPPT establishes moral rights in performances. This shift is essential in light of the moral rights paradigm. It does, however, seem to point to a new legal strategy for circumstances where it is getting harder to distinguish between the performance and the original creator, as well as a commitment on the part of WIPO to make sure that moral rights protection is accessible to a wide range of artists¹⁹.

Audience as Author

It's feasible that simply digitising a book constitutes a moral rights violation for the author. Because a work must be reduced to a format that a machine can understand when it is converted to digital format, its quality suffers. Depending on the type of job being done, disparities in quality loss will change. For instance, the digital reproduction could not do the original photograph justice if it is very detailed and has slight colour variations. Such changes can be viewed as a violation of the author's honour. It is highly doubtful that the UK courts would view this digital reproduction of the painter's work as degrading treatment because it just slightly reduces the quality of the painting rather than compromising its integrity. The opposite view can be expressed in France, where the standard for a breach of the work's integrity is far lower and more arbitrary. The artist can make a compelling case that the subpar quality has a negative effect on his work. The size of the digital copy could also serve as evidence. Given that a UK court ruled that downsizing some dinosaur drawings for a catalogue was not humiliating treatment, it is unclear if a UK author would be entitled to compensation for the size shift a work underwent due to digitalization. The defendant in a different French case was deemed to have breached his moral rights because he "suppressed the lower part of the drawing which

¹⁹ *Ibid.*

included the name of the represented person and the author's signature," according to the court.."
An author in France may argue that the reproduction of his work at its regular size on the Internet violates his moral rights of integrity because of the need to compress it to suit the screen or the impossibility of fitting the whole invention on the screen. The visual effect of the work can be seen by scrolling down²⁰.

Rights to Integrity

There will be varying degrees of quality loss while creating a digital version of a work, depending on the type of assignment. For instance, if the original is very detailed and contains minute colour variations, the digital reproduction of the image might not accurately represent the original. Such changes can be viewed as a violation of the author's moral ethic. It is extremely doubtful that the UK courts would view this digital representation of the artist's work as degrading treatment because the painting's quality has only slightly been reduced. The standards for a breach of the integrity of the work are far lower and more arbitrary in France, where the opposite judgement can be held. The artist could present a convincing argument for why the inferior quality has an intolerably detrimental impact on his works. Additionally, judgements could be drawn based on the digital copy's size. Therefore, it is unlikely that a UK author would be entitled to compensation for the size change that digitalization caused in a work. A UK court ruled that it was not offensive to scale down some dinosaur pictures for a catalogue. In a different French case, the court determined that it had violated moral rights when it "suppressed the lower part of the drawing which included the name of the represented person and the author's signature." In France, an author may claim that the online reproduction of his work at its full size breaches his moral and ethical rights to integrity because the work must be shrunk to fit the screen or cannot be displayed in its entirety. To observe the effort's visual impact, the user must scroll down.

The Right of Disclosure

The right to disclosure is another area of moral rights where copyright laws' geographical focus may cause issues. They are given a wide range of safeguards under French law. Even if it is true that an author is not required to divulge a work once it has been made, the right of disclosure (or non-disclosure) does not exist per se in UK law. The author is free to keep the work out of the public's and the general public's view. The French Code, on the other hand, is very explicit in stating that "only the creator has the right to disclose his creation...and he sets the means and conditions of this revelation." This sharing of knowledge is unrestricted and free. Because the

²⁰ *Ibid.*

courts have made it plain that the author has the right to "remain the sole judge of the opportunity of the publication" of the work, no court can impose a mandatory order requiring the disclosure of the work. The author has the right to refuse publication of his work on any service he believes is inappropriate for its presentation and/or value. Even after the exploitation rights have been assigned or transferred, the author must give their consent for the work to be disclosed in the case of Internet-based digital distribution²¹.

Compilation Problem

Compilations of data and other information must be protected under "TRIPS" regardless of their form (machine readable or not), if the choice or arrangement of their contents constitute creative contributions. TRIPS requires that "computer programmes" be protected as literary works, but it does not specify which exact category of copyright subject matter compilations must fall under. Most, if not all, jurisdictions permit compilation writers to exercise all of their moral rights. If the creators of these products interpret "compilation" in a way that includes databases, web pages, or software suites that are protected by copyright, the creators of those programmes will be denied the rights to their constituent or organising programmes. Once more, it is challenging to comprehend the policy grounds for this inconsistency.

VI. INDIAN PERSPECTIVE

Currently, copyright organisations established by copyright owners in India are in charge of managing and protecting copyright in digital works. These organisations, which are registered under Section 33²² of the Copyright Act of 1957, focus on the idea of collective copyright administration. These societies have the right to grant licences, collect payments, and share those payments among the copyright owners. But in the contemporary digital context, it is not a reliable way to prevent and manage the pirate of a copyrighted material. Therefore, the Copyright Amendment Act, 2012 to The Copyright Act, 1957 proposes similar clauses to WIPO Treaties. It contains The RMI²³'s definition under Section 2(xa) and The RMI's protection under Sections 65A and 65B. Technology protection is covered in Section 65A of the Copyright Act. According to subsection (1), anybody found guilty of attempting to violate any of the rights granted by the Act by defeating an effective technological safeguard put in place to protect those rights is subject to a fine and up to two years in prison. The Copyright Act's Section 65A addresses technology protection. A fine and up to two years in jail are possible penalties for anybody found guilty of attempting to breach any of the rights guaranteed by the Act by

²¹ *Ibid.*

²² The Copyright Act, 1957, (Act 14 of 1957), s.33

²³ The RMI under Section 2(xa) and the protection of The RMI under Sections 65A and 65B

circumventing a reliable technological safeguard put in place to protect those rights, as stated in subsection (1). According to subsection (2), nothing in subsection (1) shall prevent anybody from engaging in any of the activities described therein for a reason not expressly prohibited by the Act. It also stipulates that anyone who facilitates the circumvention of a technological measure by another person for such a purpose must keep a complete record of that other person, including his name, address, and all relevant details required to identify him and the purpose for which he has been facilitated, or do anything necessary to conduct encryption research using a lawfully obtained encrypted copy, conduct any lawful investigation, or do anything necessary to facilitate the circumvention of an encryption measure using a lawfully obtained encrypted copy.²⁴

The remainder of section 65B states that anyone who distributes, imports for distribution, broadcasts, or communicates to the public copies of any work or performance without authorization, knowing that electronic rights management information has been removed or altered without authorization, shall be fined and sentenced to a term of imprisonment not to exceed two years. Additionally, it stipulates that if any work's rights management information has been changed, the copyright holder for that work may file a civil lawsuit under Chapter XII of the Act against individuals accountable. The term "effective technological measure" has no defined meaning under the Copyright Act, and TPMs that prevent legal infractions do not apply to it either. The 'act' of circumvention is the only thing that is protected; the tools or products used are not. The protection offered by Section 65A is weakened because the new section 52 already offers a rather broad exemption, and the exemption granted by Section 65A (2) (a) appears to permit circumvention for any reason that would not be regarded as an infringement under the Act²⁵.

VII. INTER-DISCIPLINARY APPROACH

The vast majority of scholarly articles and policy discussions on the subject of moral rights in the digital world have taken a purely legal or doctrinal stance. This led to the exploration of some issues in greater depth than other, more general social, cultural, and philosophical issues, such as how technology challenges the law, how the law can respond to these challenges, to what extent the law shouldn't impede technological advancement, and how technology can be used to maintain the status quo in the law. Even while it is maintained that such investigations and analyses cannot be founded exclusively on legal justifications, these arguments may have

²⁴Inserted by Act 27 of 2012, (The Copyright Amendment Act, 2012 S.65(B).

²⁵ *Ibid.*

helped to identify pertinent questions that, if researched, studied, and answered, would progress the conversation. One expert anticipated that the third generation of copyright issues in a digital world would include of the author's function as well as the economic, social, and political components of law in a digital environment. Moral rights present the strongest case for interdisciplinary research since they are the most private and have a strong cultural emphasis that values the originality of each artist above all else. This contrasts with other intellectual property rights, which could be more focused on economics. Inter-disciplinary research is a reasonable way to advance the conversation about moral rights in the digital sphere, and regardless of how moral rights fare in this new environment—whether they endure or vanish entirely—such consequences shouldn't be allowed to happen without first hearing from all parties involved, especially the author, who is the focus of the discussion about the protection of these rights.

VIII. CHALLENGES TO MORAL RIGHTS IN THE DIGITAL ENVIRONMENT

(A) Enforcement Difficulties

The same technological developments that encourage greater audience involvement in artistic expression also make it more challenging to uphold moral principles and copyright restrictions in general. Any modifications made to a work after it has been transferred to digital form can be totally hidden from anyone who later reads the work due to the nature of digital technology. The author's identity is among the data that might be easily erased without anyone's notice. The work can be copied without losing quality no matter how many times it is done. Last but not least, the Internet might provide a way for the work to be almost completely distributed globally and for each individual to have access to the job. In an effort to avoid copyright violations of works, numerous technological measures have been devised. These include encryption technology, which prevents someone from gaining unauthorised access to the work, and watermarking, which allows copying of the work to be traced but does not prevent it. However, these so-called "anti-circumvention" steps quickly become outmoded technologically and have, up to this point, only had a limited level of effectiveness. In some countries, activities taken to circumvent these protections are now illegal by law. Due to how readily moral rights might be disregarded by digital technology, some commentators have speculated that moral rights may not be important to the creation and transmission of artistic works in the Digital Age. It is not reasonable to judge this situation based on the fact that moral rights are currently practically impossible to uphold. Instead, the real query is: To what extent, in the era of digital technology, do writers' moral rights still matter? The solution to this question should explain how moral

rights are protected and how to encourage their strict adherence and use.

Above all, the feasibility of moral rights in the digital sphere will depend on the public's understanding of and willingness to support creators' rights. To do this, the creative community must strive to establish a more friendly rapport with its audience and acknowledge the audience's potential contribution to its creative pursuits. In international copyright law, there is a "implicit presumption" that moral rights do not apply to and should not be applied to computer software. This assumption is founded on a lack of study of the pertinent policy issues. Programmers may have moral concerns about the technologies they create. The possibility of moral rights in contemporary works should be carefully considered in light of legal theory, economic implications, and public policy aimed at providing equal access to new technology. Rather than flatly rejecting the idea, this topic deserves thorough investigation. Many countries, like India, might come to the same conclusion that removing moral rights won't have much of an impact on software development. As a result, software copyright protection may become inconsistent and potential moral interests of programmers may not be looked into if these rights are left out.

(B) Conceptual Challenges

In the digital age, the tenets of the moral rights paradigm are brought into question. Problems arise when attempting to identify the author, who might be a machine, a human, or most likely a combination of the two. Since the nature of the work could not be what is commonly seen as a work of human creative expression, it raises the question of whether mistreating this form of work will have the same impact on the author as mistreating a work. The relationship between the author and the work may take on a slightly different shape in the age of digital technology, when technological means of creation may intervene between the author and the work in ways that make their connection weak and challenging to safeguard. The relationships between the participants in the works, such as those between the author and the performer or the author and his audience, may also be impacted by technological progress. For instance, the performance of an author's original work may have new significance in and of itself. As in the case where the 'actor' may be carrying out the instructions in a computer programme, the performer might be carrying out the author's instructions that would otherwise be incomprehensible to or incapable of being perceived by an audience. At the same time, the audience may become a more active participant in the creative process because to the public's ability to seamlessly alter works that are offered in digital format. Active participation in creative creation entails much more than merely physical manipulation; it also entails the formation of the artist's mindset within the recipient of the work. Although it may not be particularly in vogue in Western 'high' culture,

the notion that the audience is an aesthetic participant is a well-established aesthetic philosophy in various Eastern cultures. Digital technology makes the possibility of a new and closer relationship between author and audience into the consciousness of society and may ultimately result in real, spiritual closeness between the two by enabling a physical rapprochement between author and audience through technological means.

(C) Solutions with Regard To Digital Challenges

Two related lines of reasoning were put out as prospective solutions as a result of the challenges in carrying out and exercising moral rights. First, technology can be used to solve problems that it has caused. For instance, monitoring and tracking tools, digital rights management, digital fencing, encryption, watermarking, and digital signatures can all be used to stop infringement. Second, "collecting societies" may contribute to the administration of rights, with the general public being primarily accountable for their application and enforcement, even though it is acknowledged that technology might not provide a comprehensive solution. In terms of enforcing rights, the majority of analysts believed that global moral right harmonisation was the way to go, but they also acknowledged that this result was improbable. More complex answers are required for the conceptual issues. The right to integrity-centered ideas sparked more debate than the ones focussed on the right to identify. Two issues in particular served as the primary catalysts for worries about the scope and definition of rights. First, the digital environment has upset the balance between the interests of producers, artists, and users. Second, there could not be a universal answer for the numerous types of creative works that exist in the digital world because the strength of the moral rights arguments differed depending on the specific type of creative work in question. As a result, the majority of observers agreed that the solution rested in continuing to construe moral rights broadly. Many guidelines were given as to how these relatives' versions of rights should appear. These principles were created with the intention of defining the scope of protection based on the type of creative work in question and restricting the scope of moral rights to take into consideration the perceived interests of users, industry, society, and technology. The implementation of these criteria was to be based on assumptions rather than facts, despite the fact that they were fair in theory. The post-modernist critique of the rationale for defending personality rights included a critical assessment of several contemporary circumstances. If we have outgrown the romantic idea of authorship, the case for moral rights was thought to need an expansion of our conception of creativity. It is suggested that understanding the writers' point of view will be essential in assessing other concerns and thus creativity. In light of the new realities of the digital age, newer justifications for moral rights were also advanced, with the caveat that they might be applied for ends other than author

protection. They may serve the public interest in two ways: by ensuring the veracity of information and preserving our intellectual history and cultural legacy in a situation where original versions of works are challenging to "retain and trace." The ideas above were of course offered under the presumption that moral rights were still applicable in the digital sphere. While there have been calls for the elimination of moral rights in this context on the grounds that the practical challenges that moral rights face in the face of technology demonstrate that such rights have become irrelevant or that moral rights were in opposition to the public's right to information and the promotion of the information society and new technologies, these arguments were also founded on presumptions without any supporting data²⁶.

Since it was generally accepted that a balance of interests should be achieved by taking into account the interests of all parties involved, including authors, publishers, users, and the general public, without stifling technological advancement, the authors performed slightly better overall in academic discussion than in policy debates. However, the discussion of how such balance might be achieved omitted any mention of the writers. The discussion in the academic literature has to be more focused because it is now fragmentary in character. By posing the concerns in the broadest terms possible, the gravity of the conceptual and philosophical issues with moral rights necessitates a "bottom-up investigation" of the topic. As contrast to a top-down strategy, such a position of educated ignorance will prevent being ignorant to the structures in this new world. Inquiries of this nature should typically begin with: First, should personality interests be recognised legally in the context of the internet? The first investigation will involve assessing issues like the nature of creative authorship and its social significance in order to determine whether the philosophical foundations of personality interests still hold true. Additionally, it will include figuring out whether any utilitarian defences of personality interests can be made. If the first question is answered positively, the second question is how such interests should be protected by law. It would be required to assess all parties engaged with and influenced by personality interests, including users, intermediaries, original creators, future creators, and technology developers, in order to establish the level of protection that should be offered for such interests. The fundamental reevaluation of moral rights outlined above should be sparked by the fact that moral rights are endangered by the digital environment on all fronts. This reevaluation will be successful if two of the following elements are present, among others²⁷.

²⁶ Kheria Smita, Moral rights in the digital Environment "Authors" absence from Author's rights debate (2007) BILETA, at 6.

²⁷ *Ibid.*

IX. CONCLUSION

While concluding it is argued that given the complexity and breadth of the problems caused by contemporary information technology, it is evident that eliminating legal protections for moral rights in this field would be a hasty and bad course of action. Instead, researchers and policymakers should consider how moral rights might impact cultural and technological growth, as well as how digital technology may affect the idea of moral rights and its "embodiment in law." The moral rights required in the digital age will mirror the diversity of human creative experience. It will not only take into account the cultural changes resulting from the digital revolution, but it might also make us more aware of the great diversity of human culture that has up to now been badly reflected in international copyright law. The definition of "non-Western cultural models of creation" and "non-Western cultural expression" have been widened to embrace these frequently wildly divergent from conventional notions of western culture. It would be beneficial to rethink the goal, scope, and nature of moral rights because doing so would have several advantages. The moral rights of the digital age can work towards a more accurate portrayal of the many sides of human creativity in this historically unprecedented era of global civilisation.
