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# Moral Rights in India

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RICHA KAPOOR<sup>1</sup>

## ABSTRACT

*The abstract examines the concept of moral rights within the framework of copyright law in India. Moral rights, encompassing the rights of attribution and integrity, are integral to safeguarding the personal and reputational interests of creators. This research delves into the legal landscape of moral rights in India, exploring the relevant provisions of the Copyright Act and their implications for creators. It investigates how moral rights empower authors by acknowledging their connection to their works and protecting against unauthorized alterations or distortions. The study also considers the practical enforcement and awareness of moral rights within the Indian legal system. By analysing case law and legislative developments, the abstract aims to provide insights into the evolving significance of moral rights in shaping a fair and equitable copyright regime in India. Understanding the interplay between moral rights and traditional copyright protection is crucial in fostering a balanced legal framework that respects both the economic and moral interests of creators in the Indian context.*

**Keywords:** *moral rights, analyse, legal framework, copyright law, amendment, intellectual property, creators.*

## I. INTRODUCTION

Moral rights, a distinct facet within the realm of copyright law, encapsulate the ethical and personal interests of creators in their intellectual creations. These rights go beyond the economic aspects of copyright, emphasizing the connection between the creator and their work. In the Indian context, the acknowledgment and protection of moral rights represent a dynamic evolution within the legal framework governing intellectual property.

The term "moral rights" implies a set of rights bestowed upon creators, providing them with the ability to safeguard the integrity of their work and maintain attribution for their creations. Rooted in principles of righteousness, dignity, and ethical considerations, moral rights are instrumental in recognizing the inherent bond between creators and their intellectual endeavours. The incorporation of moral rights into Indian copyright law can be traced back to the enactment of the Copyright Act in 1957. As India embraced its own copyright regime, influenced by international standards, the Act laid the foundation for the protection of both

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<sup>1</sup> Author is a student at Amity University, India.

economic and moral rights of creators. Section 57 of the Copyright Act emerged as a pivotal provision, explicitly addressing moral rights and their preservation. This introduction seeks to explore the origin and development of moral rights within the Indian legal landscape, shedding light on how these rights have evolved to safeguard the creative and personal interests of authors, artists, and other creators.

As the intellectual property landscape in India undergoes continuous transformation, the recognition of moral rights becomes integral to fostering a balanced and ethical approach to copyright protection. This exploration delves into the historical development, legal provisions, and contemporary significance of moral rights within the context of Indian copyright law.

## **II. HISTORICAL DEVELOPMENT**

The historical development of moral rights under copyright in India can be traced through significant legislative changes and amendments aimed at recognizing and protecting the ethical and personal interests of creators. Here is a chronological overview:

- **Copyright Act of 1957:** The first modern Copyright Act in India was enacted in 1957, replacing the earlier 1914 Act. The initial Act, while providing for economic rights of creators, did not explicitly address moral rights. The focus was primarily on protecting economic incentives and encouraging the dissemination of knowledge.
- **Amendment in 1994:** The first significant amendment regarding moral rights in India occurred in 1994. Section 57 of the Copyright Act was amended to explicitly recognize moral rights, allowing creators to claim authorship and oppose any distortion, mutilation, or modification of their work. However, a limitation was introduced, restricting these claims to acts done prior to the expiration of the copyright period.
- **Amendment in 2012:** A more comprehensive amendment to Section 57 was introduced in 2012, reaffirming and strengthening the provisions related to moral rights. The amendment clarified the language, emphasizing the author's right to claim authorship and object to any distortion, mutilation, or modification of their work. This amendment reinstated the original intent of providing perpetual protection for moral rights.
- **Berne Convention Compliance:** India's approach to moral rights aligns with its commitment to international treaties, particularly the Berne Convention for the Protection of Literary and Artistic Works. The amendments made in 1994 and 2012 aimed to bring Indian copyright law in conformity with the Berne Convention's standards on moral rights.

- **Judicial Interpretations:** Over the years, Indian courts have played a significant role in shaping the interpretation and enforcement of moral rights. Landmark cases, such as *Amar Nath Sehgal v. Union of India*, have affirmed the importance of moral rights and their protection in the Indian legal system. Courts have recognized the moral rights of creators, emphasizing the need to uphold their dignity and integrity in relation to their works.
- **Contemporary Significance:** In the contemporary landscape, moral rights continue to be an integral part of copyright discussions in India. The recognition of the enduring nature of moral rights, as reflected in the 2012 amendment, underscores their perpetual protection, distinguishing them from economic rights.

The historical development of moral rights under copyright in India reflects a progression from an initial focus on economic incentives to a more comprehensive recognition of the ethical and personal interests of creators. The amendments made over the years demonstrate India's commitment to international standards and the evolving understanding of the significance of moral rights in the protection of intellectual creations.

### **III. CONCERNS AND CHALLENGES**

Concerns related to moral rights in India involve challenges and issues that creators may face in asserting and protecting their ethical and personal interests in their works. Here are some key concerns under moral rights in India:

- **Limited Awareness:** One primary concern is the limited awareness among creators about their moral rights. Many artists, authors, and creators may not be fully informed about the existence and scope of moral rights, which could hinder their ability to assert these rights effectively.
- **Enforcement Challenges:** Despite legal provisions recognizing moral rights, enforcement challenges persist. The effectiveness of asserting moral rights depends on the willingness and ability of creators to take legal action against infringements. The legal process can be time-consuming and costly, deterring some creators from pursuing their moral rights claims.
- **Ambiguity in Legal Language:** The legal language in the Copyright Act, while recognizing moral rights, may still have elements of ambiguity. This ambiguity could lead to challenges in interpreting and applying the law consistently, potentially impacting the effectiveness of moral rights protection.

- **Corporate vs. Individual Interests:** In cases where works are created within a corporate or employment setting, conflicts may arise between the moral rights of individual creators and the interests of the employing entity. Balancing the rights of individual creators with the broader commercial interests of corporations can be a complex issue.
- **Scope of Moral Rights:** The scope of moral rights, particularly the right to object to derogatory treatment of a work, may not be clearly defined. Determining what constitutes derogatory treatment and how broadly this right can be asserted poses challenges that need further clarification.
- **International Variability:** Moral rights are recognized differently across jurisdictions, and creators may face challenges when their works are used or distributed internationally. Variability in the recognition and enforcement of moral rights can lead to inconsistencies in protection.
- **Artistic Freedom vs. Moral Rights:** The tension between the artistic freedom of creators and the protection of moral rights may give rise to concerns. Striking a balance between allowing creative expression and respecting the moral rights of creators can be challenging, especially in controversial or boundary-pushing works.
- **Digital Environment Challenges:** In the era of digital media and online platforms, concerns arise regarding the potential for unauthorized modifications or distortions of digital works. Protecting the integrity of digital creations poses unique challenges that traditional legal frameworks may not fully address.

Addressing these concerns requires a multi-faceted approach involving legal reforms, awareness campaigns, and efforts to streamline the enforcement process. It is essential for stakeholders, including creators, legal professionals, and policymakers, to collaborate in addressing these concerns to ensure robust protection for moral rights in India.

#### **IV. MORAL RIGHTS IN MUSIC INDUSTRY**

Moral rights extend to works of literature, theatre, music, and art, as well as cinema. Song, lyrics, original album artwork, and music videos are all included. They do not extend to sound recordings, implying that while an artist may have moral rights to a song's music and lyrics, those same moral rights cannot be exercised in any recording of the same melody.

Moral rights do not apply in every situation. When you create a work as an employee, for example, your employer will usually hold the copyright to that work. You will only have limited moral rights in this circumstance. This may be applicable to an artist who, for

example, has signed a band agreement and works as an employee for the band's corporation or partnership. Regardless matter how they are implemented, moral rights are a strong instrument that allows artists to safeguard their work, enhance their reputation, and advance their careers in all nations where they exist.

Sec 57 of the Copyright Act says about moral rights. *Amarnath Sehgal v. UOI*, it has been resolved that the creator's moral rights are the soul of his plant. You reserve the option to moderate, monitor and foster your works, whether they have a place completely or somewhat safeguarded by copyright.

## **V. WHAT ARE MORAL RIGHTS IN DIFFERENT COUNTRIES?**

Moral rights, while universally recognised, manifest differently across countries. Here's a snapshot of how they play out in various regions:

- Europe

European countries predominantly view moral rights as inalienable. Authors typically can't transfer or extensively renounce these rights, reflecting European copyright tradition where copyrights are seen more as licensable properties rather than sellable assets. While authors can agree to limited waivers (common in European contracts), they might need to actively 'assert' these rights for enforcement. Many books, for instance, have an assertion page near the start, alongside library cataloging details.

- China

China's Copyright Law (1990) under Article 20 grants authors perpetual protection concerning rights of authorship, alteration, and integrity. Given that Article 55 offers retroactive protection for terms that haven't expired when the law came into effect, China's eternal moral rights also have retroactive characteristics. The 2001 revision maintains this stance, with the original Article 55 becoming Article 59.

- Canada

Canada's Copyright Act, under Section 14.1, safeguards authors' moral rights. While these rights can't be transferred, they can be contractually waived. Many Canadian publishing agreements now incorporate a standard clause waiving moral rights. A notable instance of these rights being invoked in Canada was the *Snow v. The Eaton Centre Ltd.* case. Artist Michael Snow had been commissioned by Toronto Eaton Centre for a Canada Geese sculpture. Snow later successfully prevented Eaton's from adorning the geese with festive bows.

- United States

Historically, the U.S. hasn't fully embraced moral rights. While certain moral rights elements exist, they're typically safeguarded via specific contractual terms or state-specific laws, or through derivative work rights in U.S. copyright law. The U.S. approach leans more towards safeguarding financial incentives over creative attributions. The U.S.'s exclusive rights tradition doesn't align seamlessly with the moral rights concept rooted in post-Revolutionary France's Civil Code. When the U.S. joined the Berne Convention, it argued that its existing statutes, like slander and libel laws, sufficiently addressed the Convention's "moral rights" provisions.<sup>2</sup>

## VI. LANDMARK JUDGEMENTS ON MORAL RIGHTS IN INDIA

### 1. Amarnath Sehgal v. Union of India

- Facts

In this case, the petitioner was appointed by the Ministry of Works, Housing, and Supplies to prepare a mural for India's first convention center Vigyan Bhavan. The mural attracted visitors from around the world. After some years, Vigyan Bhavan underwent a renovation, and the mural had to be pulled down. When the plaintiff came to know about this, he claimed damages from the government. The mural was damaged due to the negligent behaviour of the government so the plaintiff sued the government under section 57 of the Copyright Act, 1957.

- Issues

- Whether the petitioner's rights have been violated by the act of the respondent under Section 57 of the Copyright Act, 1957?
- Whether the plaintiff suffered damages due to the acts of the respondent?
- Whether the plaintiff has a better position than the defendants

- Judgement

The defendant had argued that the plaintiff had no position to claim damages as he had transferred his copyright and economic rights to them. They also had the right to destroy the work. The court held that even though the plaintiff had transferred copyrights to the defendant, he possessed special rights to claim damages. The court held that protection of artistic expression is necessary even though the artist does not have economic rights with him. It also stated that it is only the plaintiff who has the right to recreate his work and so has the right to be compensated for the loss of reputation, honour, and mental injury due to the acts of the respondent.

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<sup>2</sup> Manish Jindal, Understanding Moral Rights in Copyright, <https://bytescare.com/blog/moral-rights-copyright>

## 2. Mannu Bhandari v. Kala Vikas Pictures Ltd.

- Facts

In this case, the plaintiff, a Hindu writer, had assigned rights over her novel “Aap ka Bunty” to the defendants for producing a movie. The defendants produced a movie called “Samay ki Dhara” based on the novel. The plaintiff argued that the movie and the novel were based on different plots, which harmed her reputation as a writer and filed a suit for permanent injunction in the court.

- Issues

- Whether the appellant can be restricted to those contractual terms which are contrary to Section 57?

- Judgement

The court held that even though the plaintiff had transferred all her rights to the defendant, she still had moral rights over the work. Moral rights are not only in literary works but also apply to films and documentaries. It also held that some modifications while transforming a novel into a movie are permissible but should not harm the reputation of the author. Concerning the contract between the parties, the court stated that the provisions in the contract should not be in contravention of section 57 of the Copyright Act, 1957. Finally, it was agreed by the defendants that the name of the plaintiff and her novel’s name should be removed from the film. The plaintiff will not have any rights over the film.<sup>3</sup>

## VII. APPLICABILITY OF MORAL RIGHTS

In India, the applicability of moral rights is explicitly recognized and protected under the Copyright Act of 1957. The Copyright Act, as amended over the years, incorporates provisions that grant authors certain moral rights, reinforcing the connection between creators and their works. The relevant section pertaining to moral rights in India is Section 57 of the Copyright Act.

Key provisions related to moral rights in India:

- Attribution: Section 57 provides authors with the right to claim authorship for their works. This ensures that authors are credited for their creations, acknowledging their role in the literary, artistic, or musical work.

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<sup>3</sup> Mehernaz Contractor, Moral rights, [https://blog.iplayers.in/moral-rights/#Landmark\\_judgements\\_on\\_moral\\_rights\\_in\\_India](https://blog.iplayers.in/moral-rights/#Landmark_judgements_on_moral_rights_in_India)



- **Integrity:** The right of integrity is another critical component of Section 57. Authors have the right to object to any distortion, mutilation, or modification of their work that could be prejudicial to their reputation.
- **Special Rights in Photography:** Section 57(1)(b) extends special protection to the authors of photographs. It grants them the right to prevent the distortion or mutilation of their photographs.
- **Independent of Economic Rights:** Importantly, Section 57 specifies that the moral rights granted are independent of the author's economic rights. Even after the transfer of economic rights, authors retain the moral rights to attribution and integrity.
- **Time Limitation:** Section 57 originally did not provide a time limitation for exercising moral rights. However, the 1994 amendment introduced a limitation, restricting the author's right to object to any distortion or modification done to the work after its expiration of copyright.
- **Amendment in 2012:** The Copyright (Amendment) Act of 2012 reinstated the original intent of Section 57 by removing the time limitation. This amendment clarified that moral rights, specifically the rights to attribution and integrity, can be asserted perpetually.

#### Application of moral rights in practice:

- **Attribution:** Authors in India have the right to claim authorship and be identified as the creators of their works. This is particularly crucial in the literary, artistic, and musical domains.
- **Integrity:** Authors can object to any distortion or modification of their works that may harm their reputation or alter the original artistic intent. This includes protection against unauthorized adaptations or alterations.
- **Photographs:** Photographers have specific rights to prevent the distortion or mutilation of their photographs, recognizing the visual arts' unique considerations.

While moral rights are inherent, the assertion and protection of these rights may depend on the author's willingness and ability to enforce them. Creators and copyright owners in India should be aware of their moral rights, and legal professionals play a crucial role in advising on the exercise and protection of these rights within the legal framework provided by the Copyright Act.

## VIII. TYPES OF MORAL RIGHTS

In India, moral rights are primarily granted to authors and creators under the Copyright Act of 1957. The Act recognizes specific moral rights, reinforcing the bond between creators and their works. The key types of moral rights in India, as outlined in Section 57 of the Copyright Act, include:

- **Right to Attribution (Authorship):** Authors in India have the right to claim authorship for their works. This means that they can insist on being identified as the creator of the literary, artistic, or musical work. The right to attribution ensures that authors receive proper credit for their creations, acknowledging their role in the creative process.
- **Right to Integrity:** The right of integrity empowers authors to object to any distortion, mutilation, or modification of their work that could be prejudicial to their reputation. Authors have the right to protect the original form and intent of their creations from unauthorized alterations that may compromise their artistic vision.
- **Special Rights in Photography:** Section 57(1)(b) of the Copyright Act extends special protection to the authors of photographs. Photographers have the right to prevent the distortion or mutilation of their photographs. This recognizes the unique considerations of visual arts and the potential impact of alterations on the artistic value of photographs.
- **Independent of Economic Rights:** A crucial aspect of moral rights in India is that they are independent of the author's economic rights. Even if authors transfer or license their economic rights to others, they retain the moral rights to attribution and integrity. This emphasizes the distinct nature of moral rights and their enduring connection to the author.
- **Perpetual Right to Integrity (Amendment of 2012):** The Copyright (Amendment) Act of 2012 reinstated the original intent of Section 57 by removing the time limitation for asserting the right to integrity. Prior to this amendment, there was a limitation on the right to object to any distortion or modification after the expiration of copyright. The 2012 amendment clarified that moral rights, including the right to integrity, can be asserted perpetually.

These types of moral rights aim to protect the personal and ethical interests of authors and creators, ensuring that they receive due credit for their works and that the integrity of their creations is preserved over time. Creators and copyright owners should be aware of these rights, and legal professionals play a crucial role in advising on their exercise and protection within

the legal framework provided by the Copyright Act.

## **IX. CONCLUSION**

In conclusion, the research paper on moral rights in India provides a comprehensive understanding of the legal framework that safeguards the ethical and personal interests of authors and creators. The exploration of moral rights, as enshrined in Section 57 of the Copyright Act of 1957, reveals a dynamic landscape shaped by legislative developments, amendments, and judicial interpretations. The recognition of moral rights, including the right to attribution and the right to integrity, establishes a vital connection between creators and their literary, artistic, or musical works.

The removal of the time limitation for asserting the right to integrity through the Copyright (Amendment) Act of 2012 reaffirms the enduring nature of these rights, emphasizing their perpetual protection beyond the expiration of copyright. The study highlights the significance of moral rights as independent of economic rights, allowing authors to maintain control over the attribution and integrity of their works even after transferring economic rights. This distinction underscores the unique and enduring bond between creators and their creations, acknowledging the intrinsic value of the author's connection to their work.

Concerns related to moral rights, such as limited awareness, enforcement challenges, and ambiguity in legal language, underscore the need for continued awareness campaigns, legal education, and potential legislative refinements. These concerns, while acknowledged, do not diminish the fundamental importance of moral rights in fostering a fair and ethical environment for creative expression in India. The research also sheds light on the practical application of moral rights in various creative industries, including literature, art, music, and photography. Authors, artists, and copyright owners are empowered to protect the integrity of their works, control attribution, and make decisions about the disclosure of their creations.

As India continues to evolve in its understanding and application of intellectual property rights, including moral rights, there is a clear indication of the legal system's commitment to aligning with international standards. The study emphasizes the need for ongoing dialogue among stakeholders, legal professionals, and policymakers to address concerns, refine legal language, and ensure the effective protection of moral rights in the ever-changing landscape of creative industries. In essence, the research paper concludes that moral rights in India play a crucial role in fostering a balance between the economic interests of creators and the ethical preservation of their artistic legacy. The legal recognition and perpetuity of moral rights contribute significantly to the cultural and creative landscape, reinforcing India's commitment to the protection of

intellectual property and the promotion of a vibrant and ethical creative ecosystem.

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