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NAVIGATING OWNERSHIP AND COPYRIGHT CONFLICTS IN FILMS: STRIKING BALANCE BETWEEN PRODUCERS AND DIRECTORS

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Introduction

The Indian film industry, popularly known as Bollywood is one of the largest and most influential entertainment sectors globally. Since the first cinematic film was showcased in Mumbai in 1896, the industry has grown exponentially, involving a multitude of professionals such as producers, directors, scriptwriters, actors, singers, and technicians. However, with such diverse collaboration comes the inevitable challenge of internal conflicts, particularly over issues of copyright and ownership. These disputes often arise between producers, who typically hold legal ownership due to their financial investments, and directors, who claim creative ownership over their artistic contributions. This tension raises a fundamental question: Who holds the ultimate rights over a film-the producer or the director?

Copyright laws in India, primarily governed by the “Copyright Act, 1957”, play a crucial role in defining ownership rights within the film industry. The Act grants producers the initial copyright over cinematographic works, as they are considered the first owners unless otherwise specified in a contract. However, directors and other creative contributors, such as scriptwriters and lyricists, often assert their moral rights under Section 57 of the Act, which allows them to claim authorship and protect the integrity of their work. Despite these

provisions, the industry remains largely producer-dominated, leaving directors and other creative professionals with limited financial and creative control.

The advent of digital technology and online streaming platforms has further complicated copyright enforcement. Digital piracy and unauthorized distribution of films have become rampant, posing significant challenges to the protection of intellectual property. The “Information Technology Act, 2000”, and the “Cinematograph Act, 1952”, provide some measures to combat these issues, but enforcement remains a persistent challenge. Additionally, the rise of Over-the-Top (OTT) platforms has introduced new complexities in copyright management, as filmmakers and producers grapple with unauthorized streaming and piracy.

India being a signatory of globally recognised copyright frameworks like “Berne Convention” and “TRIPS Agreement”, need to adhere to the basic requirements set by these conventions for copyright protection in India. However, India's producer-centric model contrasts sharply with practices in countries like the United States and European nations, where directors are often recognized as co-authors and granted both economic and moral rights. For instance, the ‘Director’s Guild of America (DGA)’ ensures that Hollywood directors retain significant creative control and receive residual payments, a model that is largely absent in India.

This research delves into the complexities of copyright and ownership disputes in the Indian film industry, examining the legal frameworks, judicial precedents, and international perspectives that shape these conflicts. It also explores the challenges posed by digital innovation and proposes reforms to create a more balanced and equitable copyright system that protects the rights of all stakeholders, including directors, writers, and composers.

Copyright Laws in India

Intellectual property is referred to as the creation of work by the intellect or mind. This kind of property is intangible in nature¹. When a work is created by one's own intellect, it has to be protected by him so that no other individual misuses it or regard it as his own and therefore to safeguard these creations, the intellectual property rights have been established which includes Patents, Trademarks, Trade secrets, copyright etc.

Copyright is the legal protection granted to the creators for the protection of their artistic and literary works. The primary legislations dealing with copyrights in context of cinematographic works in India are- Copyright Act, 1957², Cinematograph Act, 1952³, and the Information Technology Act, 2000⁴.

Copyright Act, 1957

Copyright Act, 1957⁵ was enacted to give protection to the literary, dramatic, musical and artistic work of the creators including the cinematographic work etc. within India and the same has been provided under Section 13⁶ of the act. The term cinematograph film has

¹WIPO, <https://www.wipo.int/about-ip/en/> (last visited 16th February, 2025).

² Supra Note 3.

³*The Cinematograph Act, 1952, (Act 37 of 1952).*

⁴*The Information Technology Act, 2000, (Act 21 of 2000).*

⁵ Supra Note 3.

⁶Works in which copyright subsists. — (1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say, — (a) original literary, dramatic, musical and artistic works; (b) cinematograph films; and (c) 1 [sound recording]. (2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 40 or section 41 apply, unless,— (i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India; (ii) in the case of an unpublished work other than a 2 [work of architecture], the author is at the date of the making of the work a citizen of India or domiciled in India; and (iii) in the case of 2 [work of architecture], the work is located in India. Explanation. — In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work. (3)

been defined under Section 2(f)⁷ of the act. The act consists of various provisions from the procedure for its application to the duration of its applicability. It grants protection to the individuals to hold control over the reproduction or distribution etc. of their work. Usually, the creators of the artistic, musical, literary etc. works are known as the original owners of their work. However, according to Section 17⁸ of this act, the

Copyright shall not subsist— (a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work; (b) in any 1 [sound recording] made in respect of a literary, dramatic or musical work, if in making the 1 [sound recording], copyright in such work has been infringed. (4) The copyright in a cinematograph film or a 1 [sound recording] shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or, as the case may be, the 1 [sound recording] is made. (5) In the case of 2 [work of architecture], copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

⁷4 [(f) “cinematograph film” means any work of visual recording 5 [***] and includes a sound recording accompanying such visual recording and “cinematograph” shall be construed as including any work produced by any process analogous to cinematography including video films;].

⁸First owner of copyright.— Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein: Provided that— (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work;(b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein; (c) in the case of a work made in the course of the author’s employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein; 1 [(cc) in the case of any address or speech delivered in public, the person who has delivered such address or speech or if such person has delivered such address or speech on behalf of any other person, such other person shall be the first owner of

producers are regarded as the original owners of the cinematographic works⁹. Section 14 (d)¹⁰ of the act grants economic rights of the work to the producers and section 57¹¹ of the act gives the directors moral rights such as authorship claims etc. Section 26¹² of the act provides that the duration of copyright lasts 60 years from the start of the year after the author's passing. Moreover, India has been signatory to various

the copyright therein notwithstanding that the person who delivers such address or speech, or, as the case may be, the person on whose behalf such address or speech is delivered, is employed by any other person who arranges such address or speech or on whose behalf or premises such address or speech is delivered;] (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein; 2 [(dd) in the case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein. (e) in the case of a work to which the provisions of section 41 apply, the international organization concerned shall be the first owner of the copyright therein. 3 [Provided that in case of any work incorporated in a cinematograph work, nothing contained in clauses (b) and (c) shall affect the right of the author in the work referred to in clause (a) of sub-section (1) of section 13.]

⁹Handbook of copyright law <https://copyright.gov.in/documents/handbook.html> (last visited 16th February, 2025).

¹⁰in the case of a cinematograph film, — 3 [(i) to make a copy of the film, including— (A) a photograph of any image forming part thereof; or (B) storing of it in any medium by electronic or other means;] 4 [(ii) to sell or give on commercial rental or offer for sale or for such rental, any copy of the film; (iii) to communicate the film to the public;

¹¹Author's special rights.— 1 [(1) Independently of the author's copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right— (a) to claim authorship of the work; and (b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work 2 [***] if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation: Provided that the author shall not have any right to restrain or claim damages in respect of any adaptation of a computer programme to which clause (aa) of sub-section (1) of section 52 applies. (2) The right conferred upon an author of a work by sub-section (1), 3 [***], may be exercised by the legal representatives of the author.

¹²Term of copyright in cinematograph films. — In the case of a cinematograph film, copyright shall subsist until [sixty years] from the beginning of the calendar year next following the year in which the film is published.

international agreements relating to copyright like The Berne Convention for the Protection of Literary and Artistic Works and The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)¹³.

The Berne Convention: One of the most significant international agreements for copyright protection is the Berne Convention. India ratified the Berne Convention in 1928. This agreement ensures that creators rights are recognised and protected globally and establishes minimum standards for copyright protection. It provides immediate protection for the creative works without the need for formalities like notice or registration¹⁴.

TRIPS Agreement: The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was implemented under the supervision of World Trade Organisation (WTO). In 1995, India joined the World Trade Organization, making it liable to the TRIPS Agreement's clauses. Member nations are required to abide by the basic requirements for copyright and other forms of intellectual property protection established under TRIPS. To protect the rights of creators and owners, it mandates that member nations set up efficient copyright legislation and enforcement systems. TRIPS specifies the exclusive rights given to the copyright holders and mandates that the original literary and artistic works shall be protected by copyright¹⁵.

India being a signatory to the TRIPS Agreement and the Berne Convention is obligated to abide by the minimal standards for copyright protection outlined in both the agreements.

The Cinematograph Act, 1952

¹³Harivarshan M, Amrutha Valavi, "COPYRIGHT LAWS AND THEIR IMPACT IN INDIAN FILM INDUSTRY" 12:4, *International Journal of Creative Research Thoughts* 663 (2024).

¹⁴Dr. Seema Surendran, Professor, "APPLICATION OF COPYRIGHT LAW TO THE INDIAN FILM INDUSTRY: AN ANALYSIS" 3:3, *Indian Journal of Integrated Research in Law*4.

¹⁵Dr. Seema Surendran, Professor, "APPLICATION OF COPYRIGHT LAW TO THE INDIAN FILM INDUSTRY: AN ANALYSIS" 3:3, *Indian Journal of Integrated Research in Law*5.

The Cinematograph Act, 1952¹⁶ regulates the certification and exhibition of the films. It issues guidelines as to the content of the film and ensures that the films are suitable for its exhibition to the public. Section 3¹⁷ of the act talks about the establishment of a board namely Central Board of Film Certification (CBFC) for certifying or regulating films before it gets publicly exhibited. Section 5A¹⁸ of the act provides that films have to obtain certification prior to being shown in theatres.

¹⁶ Supra Note 6.

¹⁷. Board of film Certification. -(1) For the purpose of sanctioning films for public exhibition, the Central Government may, by notification in the Official Gazette, constitute a Board to be called the [Board of Film Certification] which shall consist of a Chairman and [not less than twelve and not more than twenty-five] other members appointed by the Central Government. (2) The Chairman of the Board shall receive such salary and allowances as may be determined by the Central Government, and the other members shall receive such allowances or fees for attending the meetings of the Board as may be prescribed. (3) The other terms and conditions of service of the members of the Board shall be such as may be prescribed.]

¹⁸[5A. Certification of films.-2(1) If, after examining a film or having it examined in the prescribed manner, the Board considers that- (a) the film is suitable for unrestricted public exhibition, or, as the case may be, for unrestricted public exhibition with an endorsement of the nature mentioned in the proviso to clause (i) of sub-section (1) of section 4, it shall grant to the person applying for a certificate in respect of the film a "U" certificate or, as the case may be, a "VA" Certificate with any UA marker]; (b) the film is not suitable for unrestricted public exhibition, but is suitable for public exhibition restricted to adults or, as the case may be, is suitable for public exhibition restricted to members of any profession or any class of persons/ it shall grant to the person applying for a certificate in respect of the film an "A" certificate or, as the case may be, a "S" certificate, and cause the film to be so marked in the prescribed manner: Provided that the applicant for the certificate, any distributor or exhibitor or any other person to whom the rights in the film have passed shall not be liable for punishment under any law relating to obscenity in respect of any matter contained in the film for which certificate has been granted under clause (a) or clause (b).1 (2) A certificate granted or an order refusing to grant a certificate in respect of any film shall be published in the Gazette of India. (3) Subject to the other provisions contained in this Act, a certificate granted by the Board under this section shall be valid throughout India.

Section 6AB¹⁹ of the act prohibits the unauthorised film screenings. Section 7²⁰ of the act provides that anyone who manufactures or aids in

¹⁹Prohibition of unauthorised exhibition of films.— No person shall use or abet the use of an infringing copy of any film to exhibit to the public for profit— (a) at a place of exhibition which has not been licensed under this Act or the rules made thereunder; or (b) in a manner that amounts to the infringement of copyright under the provisions of the Copyright Act, 1957 (14 of 1957) or any other law for the time being in force.].

²⁰a) without lawful authority (the burden of proving which shall be on such person) alters or tampers in any way any film after it has been certified, he shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than ten lakh rupees, or with both; (b) exhibits or permits to be exhibited in any place, any (i) which has not been certified by the Board; (ii) which, when exhibited does not display the prescribed mark of the Board; (iii) which, when exhibited displays a mark of the Board which has since been altered or tampered with, after the mark has been affixed, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten lakh rupees, or with both and in the case of a continuing offence with a further fine which may extend to one lakh rupees for each day during which the offence continues; (c) exhibits or permits to be exhibited in any place, a video film in contravention of the provisions of clause (a) or clause (b), he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten lakh rupees, or with both, and in the case of a continuing offence with a further fine which may extend to one lakh rupees for each day during which the offence continues; (d) exhibits or permits to be exhibited any film, which has been certified by the Board as “A” within the meaning of this Act to any minor, such person shall be liable to penalty not exceeding ten thousand rupees per person for every such exhibition, levied by the authorised officer in such manner as may be prescribed; (e) exhibits or permits to be exhibited any film, which has been certified by the Board as “S” within the meaning of this Act, to a person who is not a member of such profession or class, shall be liable to penalty not exceeding ten thousand rupees per person for every such exhibition, levied by the authorised officer in such manner as may be prescribed; (f) fails to comply with the provisions contained in section 6A or with any order made by the Central Government or by the Board in the exercise of any of the powers or functions conferred on it by this Act or the rules made thereunder, he shall be liable to penalty not exceeding five lakh rupees, levied by the authorised officer and in such manner as may be prescribed: Provided that notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Metropolitan Magistrate, or any Judicial Magistrate of the First Class specially empowered by the State Government in this behalf, to pass a sentence of fine

the making of an unauthorised copy of a motion picture or sound recording with the intention of reselling it shall face penalties²¹.

Information Technology Act, 2000

The Information Technology Act, 2000²² was enacted to address the issues related to e-commerce, digital rights and cybercrimes. The act states that unauthorised delivery of content which is copyrighted is an

exceeding five thousand rupees on any person convicted of any offence punishable under this Part under clauses (a) to (c): Provided further that no distributor or exhibitor or owner or employee of a cinema house shall be liable to punishment for contravention of any condition of endorsement of caution that has been certified as "UA" under this Part. [(1A) Save as otherwise provided in section 52 of the Copyright Act, 1957 (14 of 1957), if any person contravenes the provisions of section 6AA or section 6AB, he shall be punishable with imprisonment for a term which shall not be less than three months, but may extend to three years and with a fine which shall not be less than three lakh rupees but may extend to five per cent. of the audited gross production cost. (1B) Notwithstanding anything contained in this section— (i) a person aggrieved by a contravention under section 6AA or section 6AB shall not be prevented from taking suitable action for an infringement under section 51 of the Copyright Act, 1957 (14 of 1957) or from taking suitable action for computer related offences under section 66 of the Information Technology Act, 2000 (21 of 2000) or any other relevant laws for the time being in force; (ii) the appropriate Government or its agencies shall not be prevented from taking suitable action against an intermediary as defined under clause (w) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000), where such intermediary acts in the manner as set out under sub-section (3) of section 79 of the said Act or any other law for the time being in force. (2) If any person is convicted of an offence punishable under this section committed by him in respect of any film, the convicting court may further direct that the film shall be forfeited to the Government. (3) The exhibition of a film, in respect of which an "A" certificate 1 [or a "S" certificate or a 2 ["UA" Certificate with any UA marker]] has been granted, to children below the age of three years accompanying their parents or guardians shall not be deemed to be an offence within the meaning of this section. 3 [(4) Whoever aggrieved by any imposed under clauses (d) to (f) of sub-section (1) or section 14, may prefer an appeal to such appellate authority within such period and in such form and manner as may be prescribed.]

²¹Dr. Seema Surendran, Professor, "APPLICATION OF COPYRIGHT LAW TO THE INDIAN FILM INDUSTRY: AN ANALYSIS" 3:3, *Indian Journal of Integrated Research in Law*2.

²² Supra Note 7.

offense²³. Section 66B²⁴ of the act imposes penalty for dishonestly receiving or retaining any computer resource. The pirated content distributed digitally without the knowledge of the copyright holder is considered as a stolen computer resource. Section 43²⁵ (b) of the act also imposes penalty on unauthorized copying, extracting data including the copyrighted digital content.

²³Nandita V, "Copyright Infringement in the Entertainment Sector: An Indirect Liability for the Film Makers" 6:1, *International Journal of Law Management & Humanities* 167 (2023).

²⁴Punishment for dishonestly receiving stolen computer resource or communication device. –Whoever dishonestly receive or retain any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

²⁵[Penalty and compensation] for damage to computer, computer system, etc.–If any person without permission of the owner or any other person who is in charge of a computer, computer system or computer network, – (a) accesses or secures access to such computer, computer system or computer network 7 [or computer resource];(b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium; (c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network; (d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network; (e) disrupts or causes disruption of any computer, computer system or computer network; (f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means; (g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made thereunder; (h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network; 1 [(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means; (j) steal, conceal, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage;]2 [he shall be liable to pay damages by way of compensation to the person so affected.].

Ownership and Copyrights dispute

Rights relating to ownership in India have become a complex issue. As stated in section 17 of the Copyrights Act, 1957²⁶, unless an agreement otherwise specifies, the producer is the original owner of the cinematographic work. This results into a conflict between the producers and directors when the director starts claiming his ownership rights over certain aspects of the movie. The producers hold economic rights over the film as in they can reproduce, distribute or exploit the work if they want, on the other hand the other creators of the film like the directors, scriptwriters, lyricists etc, do not have such rights unless any agreement earlier made between them gives them those rights. Copyright infringement in the entertainment industry result in significant financial losses for the original creators because of the unpredictability of the public reaction towards the film and irreversibility of content loss. This is consistent with the basic reality that copyright violations cause the creator to suffer significant losses²⁷. Facts, ideas, and concepts are not protected by copyright. The only rights protected by the Copyright are the form, manner arrangement and expression of the idea. Therefore, two authors are free to independently develop the same concept even if their works are slightly similar to each other's.

In the landmark case of *R.G. Anand v. Delux Films*²⁸, the Supreme Court of India affirmed this idea. Because of the significant differences between the two, the Supreme Court ruled that the movie did not violate the copyright of the play, even though there were some similarities. It would be a copyright violation if someone who views

²⁶ Supra Note 11.

²⁷R. Vimala, "An Analysis of Copyright Violations in Relation to Filmmakers' Indirect Liability" 5:8, *International Journal of Research Publication and Reviews* 3220 (2024).

²⁸*R.G. Anand v. Delux Films* AIR 1978 SC 1613.

both works believe that the later work is an exact copy of the first²⁹. Section 63 of the Copyright Act, 1957³⁰ deals with the provision of penalties for copyright infringement.

In the case of *IPRS v. Eastern India Motion Pictures Association*³¹, XYZ Films filed a well-known lawsuit against UTV Motion Pictures, alleging that the movie "Raid: The Redemption" was plagiarized and that almost 20 minutes of it had been included into the movie Bhaagi. In this case, the Bombay High Court noted that the plaintiff's copyright is only preserved in the realization or impact of the film, not in its central elements. If the competitor's work is entirely unique and just appears in a small section of the realization and hasn't been replicated, there isn't any infringement.

The rights of the directors and all the other stakeholders are protected under Section 57 of the Copyright Act, 1957³² which grants the author certain moral rights. The Berne convention and TRIPS agreements as discussed above all mention the same.

In the case of *Amar Nath Sehgal v. Union of India*³³, the Delhi High Court held that any author's moral right is his soul, and his creativity is

²⁹Rachana Desai, "Copyright Infringement in the Indian Film Industry" 7:2, *Vanderbilt Journal of Entertainment and Technology Law* 264 (2020).

³⁰Offence of infringement of copyright or other rights conferred by this Act.— Any person who knowingly infringes or abets the infringement of— (a) the copyright in a work, or (b) any other right conferred by this Act 1 [except the right conferred by section 53A], 2 [shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees]: Provided that 1 [where the infringement has not been made for gain in the course of trade or business] the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.].

³¹*IPRS v. Eastern India Motion Pictures Association AIR 1977 SUPREME COURT 1443.*

³²Supra Note 14.

³³*Amar Nath Sehgal v. Union of India 117(2005) DLT717.*

its essence. Further in the case of *Sanjeev Pillai v Venu Kunnappalli and another*³⁴, the court held that “authorship cannot be relinquished”.

Apart from directors and producers, the other stakeholders also have certain contributions to a film and therefore, they also have a right to get their works protected. The Screenwriters Association (SWA) in India fights for the rights of the screenwriters for the ownership of their scripts. It is also a committee for settling disputes related to the rights of the writers³⁵. The Indian Performing Right Society (IPRS) seeks to protect the rights of the lyricists and the composers³⁶.

In the case *Shree Venkatesh v. Vipul Amrutlal Shah*³⁷, The court ruled that a film is more than the sum of its parts and that the purpose of the copyright Act will be compromised if copying the film's content is not deemed to be an infringement. It is crucial to note that if a significant portion of a movie violates the copyright of another work, the movie will not be granted copyright protection.

International Perspective

Due to differences in international treaties, industry practices, and legal systems, different jurisdictions have different copyright ownership policies for films. Although producers are first granted ownership of films under Indian law, international agreements such as the TRIPS Agreement and the Berne Convention (1886) guarantee creators a minimal level of copyright protection. In contrast, the Director's Guild of America (DGA)-backed industry standards in Hollywood grant directors' greater privileges than those in India.

1. The Berne Convention, 1886: Safeguarding Authors' Rights Across the World-

The Berne Convention for the Protection of Literary and Artistic Works (1886)³⁸ is the oldest and most powerful international copyright agreement. It came up with the principle of "automatic protection," i.e.,

³⁴*Sanjeev Pillai v Venu Kunnappalli and another* AIR ONLINE 2019 KER 773.

³⁵ SWA <https://swaindia.org/> (last visited 16th February, 2025).

³⁶ IPRS <https://www.iprs.org/> (last visited 17th February, 2025).

³⁷*Shree Venkatesh v. Vipul Amrutlal Shah* AIR 2010 (NOC) 610 (CAL.)

³⁸ WIPO <https://www.wipo.int/treaties/en/ip/berne/> (last visited 20th February, 2025).

a work that is copyrighted in a member state is automatically protected in all the others.

Major Provisions of the Berne Convention:

- Automatic Protection (Article 5): Copyright protection is automatic without any need for registration³⁹.
- Minimum Term of Protection (Article 7): Cinematographic works shall be protected for a period of not less than 50 years from the date of their publication. India, however, provides 60 years under the Copyright Act, 1957⁴⁰.

³⁹(1) Authors shall enjoy, in respect of works for which they are protected under this Convention, in countries of the Union other than the country of origin, the rights which their respective laws do now or may hereafter grant to their nationals, as well as the rights specially granted by this Convention. (2) The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work. Consequently, apart from the provisions of this Convention, the extent of protection, as well as the means of redress afforded to the author to protect his rights, shall be governed exclusively by the laws of the country where protection is claimed. (3) Protection in the country of origin is governed by domestic law. However, when the author is not a national of the country of origin of the work for which he is protected under this Convention, he shall enjoy in that country the same rights as national authors. (4) The country of origin shall be considered to be: (a) (b) (c) in the case of works first published in a country of the Union, that country; in the case of works published simultaneously in several countries of the Union which grant different terms of protection, the country whose legislation grants the shortest term of protection; in the case of works published simultaneously in a country outside the Union and in a country of the Union, the latter country; in the case of unpublished works or of works first published in a country outside the Union, without simultaneous publication in a country of the Union, the country of the Union of which the author is a national, provided that: (i) when these are cinematographic works the maker of which has his headquarters or his habitual residence in a country of the Union, the country of origin shall be that country, and (ii) when these are works of architecture erected in a country of the Union or other artistic works incorporated in a building or other structure located in a country of the Union, the country of origin shall be that country.

⁴⁰(1) The term of protection granted by this Convention shall be the life of the author and fifty years after his death. (2) However, in the case of cinematographic works, the

- Moral Rights (Article 6bis): Authors (including film directors) have the right to claim authorship and to oppose any distortion or mutilation of their work⁴¹.

countries of the Union may provide that the term of protection shall expire fifty years after the work has been made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years after the making. (3) In the case of anonymous or pseudonymous works, the term of protection granted by this Convention shall expire fifty years after the work has been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, the term of protection shall be that provided in paragraph (1). If the author of an anonymous or pseudonymous work discloses his identity during the above-mentioned period, the term of protection applicable shall be that provided in paragraph (1). The countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years. (4) It shall be a matter for legislation in the countries of the Union to determine the term of protection of photographic works and that of works of applied art in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work. (5) The term of protection subsequent to the death of the author and the terms provided by paragraphs (2), (3) and (4) shall run from the date of death or of the event referred to in those paragraphs, but such terms shall always be deemed to begin on the first of January of the year following the death or such event. (6) The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs. (7) Those countries of the Union bound by the Rome Act of this Convention which grant, in their national legislation in force at the time of signature of the present Act, shorter terms of protection than those provided for in the preceding paragraphs shall have the right to maintain such terms when ratifying or acceding to the present Act. (8) In any case, the term shall be governed by the legislation of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

⁴¹(1) Independently of the author's economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation. (2) The rights granted to the author in accordance with the preceding paragraph shall, after his death, be maintained, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation, at

Application in the Film Industry:

- Although India is a signatory to the Berne Convention, it has yet to fully apply moral rights for film directors within its legal system.
- Directors are considered co-authors of films in European countries like France, and they have both economic and moral rights.

2. The TRIPS Agreement: Implementing Minimum Copyright Standards-

In 1994, the World Trade Organization (WTO) signed the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)⁴² with the objective to harmonize intellectual property rights around the globe.

Major Copyright Provisions of TRIPS:

- Minimum Standards of Protection (Article 9): Uses the standards of Berne Convention to mandate the protection of copyrights of films and other works for the members⁴³.
- Economic Rights of Exclusivity (Article 11⁴⁴& 12⁴⁵): Confers sole rights on the copyright owner to manage reproduction, distribution, and adaptation of movies.

the moment of their ratification of or accession to this Act, does not provide for the protection after the death of the author of all the rights set out in the preceding paragraph may provide that some of these rights may, after his death, cease to be maintained. (3) The means of redress for safeguarding the rights granted by this Article shall be governed by the legislation of the country where protection is claimed.

⁴² WTO.ORG https://www.wto.org/english/docs_e/legal_e/27-trips.pdf (last visited 20th February, 2025).

⁴³1. Members shall comply with Articles 1 through 21 of the Berne Convention (1971) and the Appendix thereto. However, Members shall not have rights or obligations under this Agreement in respect of the rights conferred under Article 6bis of that Convention or of the rights derived therefrom. 2. Copyright protection shall extend to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such.

⁴⁴In respect of at least computer programs and cinematographic works, a Member shall provide authors and their successors in title the right to authorize or to prohibit

- Measures for Enforcement (Articles 41-61): Seeks to compel nations to put in place judicial remedies against infringement of copyrights.

Effect on India:

- India is a signatory to TRIPS, which means that Indian copyright laws need to adhere to these global norms.
- Indian law remains producer-centric, whereas the European and American economies have better creator protections.
- India enacted tougher copyright enforcement in the 2012 Copyright (Amendment) Act, aligning with the anti-piracy provisions of TRIPS.

Challenges in Adopting Global Copyright Standards in India

India as a signatory to the TRIPS Agreement and the Berne Convention, finds it difficult to completely apply these international norms due to-

1. Absence of Collective Bargaining Organizations for Directors: In contrast to the U.S. DGA or France's SACD, India does not have powerful unions representing directors' interests.
2. Ineffective Enforcement of Copyright Laws: Digital piracy and transparency shortfalls in revenue models hinder the effectiveness of current copyright protection.
3. Producer-Dominated Industry Culture: Bollywood and other Indian film industries have a history of prioritising producers over artists, which limits the possibility of legal reforms.

the commercial rental to the public of originals or copies of their copyright works. A Member shall be excepted from this obligation in respect of cinematographic works unless such rental has led to widespread copying of such works which is materially impairing the exclusive right of reproduction conferred in that Member on authors and their successors in title. In respect of computer programs, this obligation does not apply to rentals where the program itself is not the essential object of the rental.

⁴⁵Whenever the term of protection of a work, other than a photographic work or a work of applied art, is calculated on a basis other than the life of a natural person, such term shall be no less than 50 years from the end of the calendar year of authorized publication, or, failing such authorized publication within 50 years from the making of the work, 50 years from the end of the calendar year of making.

Proposed Solutions:

- Create a body like the DGA in India to bargain for reasonable rights for directors.
- Implement moral and residual rights for directors in Indian copyright law.
- Enhance enforcement against digital piracy through better monitoring mechanisms.

Conclusion

The changing scenario of copyright and ownership cases in films is a major issue in the Indian film industry. Although producers have traditionally been designated as the original owners of the copyright of a film, directors, scriptwriters, composers, and lyricists are now making increasing demands to be recognized for their creative efforts. This continuing battle between economic and moral rights requires a lucid legal policy and clearly stated contractual terms so that all the parties are treated fairly.

The Copyright Act, 1957, is the main legislation that regulates cinematographic works in India, and it gives producers the initial ownership unless otherwise specified in contracts. Section 57 of the Act, however, gives moral rights to directors, allowing them to claim authorship and protect the integrity of their work. Nevertheless, the industry is still producer-dominated, restricting directors' financial and creative rights. By contrast, European and Hollywood copyright regimes acknowledge directors as co-creators of movies and hence as rightful owners of residuals and royalties. The Director's Guild of America (DGA) in the United States offers a robust institutional support for safeguarding directorial rights, but no such institution exists in India.

Digital streaming platforms and internet piracy have also made it increasingly difficult to enforce copyrights. Although the Information Technology Act, 2000, and the Cinematograph Act, 1952, have provisions to stem digital piracy and control film certification, enforcement is a major problem. Court decisions, like *Super Cassettes Industries Ltd. v. MySpace Inc.* (2011), have stressed online platform

liability in the form of hosting unauthorized content, which has resulted in more stringent copyright protection practices on OTT players like Netflix and Amazon Prime. In addition, the Information Technology (Intermediary Guidelines) Rules, 2021, mandating platforms to delete infringing material on notice have enhanced digital copyright enforcement.

Judicial precedents have also been influential in formulating copyright legislation in India. *R.G. Anand v. Deluxe Films* (1978), for instance, have reiterated that ideas are not eligible for protection through copyright law but their expression is. The *IPRS v. Eastern India Motion Pictures Association* (1977) case laid down that the producers have the copyright of the music in films unless specified otherwise in the contract, affecting the rights of lyricists and composers. *Sholay Media & Entertainment Pvt. Ltd. v. Ramesh Sippy* (2016) reaffirmed the fact that the producer has ownership over the film unless the director is entitled to the same by a contract. These cases highlight the need for precise agreements to avoid legal conflicts and ensure fair distribution of rights.

The international perspective on copyright ownership further highlights India's gaps in protecting creative professionals. The Berne Convention (1886) and the TRIPS Agreement (1994) establish minimum global standards for copyright protection, requiring member countries, including India, to align their laws with these agreements. But India's producer-oriented model differs from the European copyright legislations, where the directors are established as co-authors of movies and given the same moral and economic rights as producers. India's failure to provide residual payment schemes for directors and writers only serves to accentuate the urgency for policy changes to allow just compensation.

To address these issues, dispute resolution mechanisms such as Arbitration and Mediation (under the Arbitration and Conciliation Act, 1996), Copyright Board adjudications, and judicial interventions provide legal avenues for resolving conflicts. Courts continue to play a

critical role in interpreting copyright laws and enforcing contractual obligations, ensuring fair treatment of all stakeholders.

In summary, though India's copyright system has come a long way in offering legal certainty on ownership and enforcement, the producer-centric model continues to be a major impediment for creative professionals. Implementing international best practices like acknowledging directors as co-authors, enhancing moral rights, and enforcing stronger digital copyright protection can assist in building a more balanced copyright system. Apart from these steps, creating industry-wide agreements, creating a director's guild similar to the DGA, and strengthening enforcement against piracy would further strengthen India's copyright regime. The future of copyright ownership over films will rest on the extent to which the legal system adapts to the evolving dynamics of digital distribution, global collaboration, and changing industry practice.