

## RIGHTS OF COMPOSERS IN INDIA: COPYRIGHT AND COPYRIGHT PROTECTION

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### ABSTRACT

*After centuries, now in the present, every person in the world has a set of ambitious dreams to lead their future not only on usual platforms like becoming a doctor and engineer, considering them as the only greatest profession then. In the current 20th century, there is a lot of scope in different fields to recognise each and every talent. Same as that in the music industry; music is an intricate art is the creator's greatest asset, and there is N number of creator's trying hard to shine in their industry with the so-called tag as an "INDEPENDENT MUSICIAN", a person owing 100% ownership over the music composed. In the means of protecting such creative works of their composition and earning royalties out of their work, if used by others, copyright plays a crucial role by enforcing copyright protection of their works. This journal delves into the rights of composers in India concerning copyright and copyright protection. This discussion is grounded in the current legal context, including relevant laws and recent developments.*

### INTRODUCTION

Music composition is a complex and creative space that involves combining melodies, harmonies, rhythms, and lyrics to create an impactful piece of music. Composers who create masterpieces with their individuality and uniqueness have a significant impact on generating soundscapes that characterise their own cultural and emotional experiences. However, their contributions go beyond simple artistry and require tremendous intellectual work, necessitating strong legal safeguards to preserve their creative results. Recognising this, the Copyright Act of 1957 offers a packed framework for protecting composers' rights. Copyright law guarantees that composers in India and their counterparts worldwide have legal protections for their original work. This journal examines the rights of the composers, the copyright protection rights and the laws enforced when the copyright is infringed within the framework of Indian law, focusing on the Indian Copyright Act of 1957 and subsequent amendments.

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## LEGISLATIVE FRAMEWORK

The Copyright Act of 1957 is the primary legislation regulating copyright in India. This Act and its amendments encompass the rights of the creators' creators, including composers.

## KEY AMENDMENTS

### Copyright (Amendment) Act, 2012

The amendment of 2012 brought momentous changes in the digital<sup>1</sup> domain and strengthened the rights of composers. It introduced provisions for compulsory licensing<sup>2</sup>, making it easier for composers to legitimise their works while ensuring the access of content<sup>3</sup> to the public.

### Copyright (Amendment) Act, 2017

The 2017 Amendment strengthened India's administrative and procedural framework for administering copyright. While these changes primarily address the operational aspects of copyright law, they have important ramifications for composers. The 2017 amendments have contributed to a more secure and transparent system that better serves the interests of composers and other rights holders by strengthening copyright society regulation<sup>4</sup>, allowing for electronic filing<sup>5</sup>, clarifying performers' rights<sup>6</sup>, and improving dispute resolution mechanisms<sup>7</sup>.

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## COPYRIGHT

Copyright is a legal privilege granted to creators of literary, dramatic, musical and artistic works as well as makers of film and sound recordings. In fact, it is a set of rights that includes the rights to reproduce, communicate with the public, adapt, and translate the work. The composition of rights may vary slightly based on the work. A copyright is issued by the government only when applied by the composer. The work

The composer is recognised for copyright protection<sup>8</sup> when he specifies the musical compositions in which the copyright subsists. Attaining copyright protection acts as a barrier

<sup>1</sup> INDIAN COPYRIGHT ACT, 1957. Sec. 52(1)(B), Act of Parliament, 1957 (India)

<sup>2</sup> INDIAN COPYRIGHT ACT, 1957. Sec. 31D, Act of Parliament, 1957 (India)

<sup>3</sup> INDIAN COPYRIGHT ACT, 1957. Sec. 17(b)(c) & 18, Act of Parliament, 1957 (India)

<sup>4</sup> INDIAN COPYRIGHT ACT, 1957. Sec. 33, Act of Parliament, 1957 (India)

<sup>5</sup> INDIAN COPYRIGHT ACT, 1957. Sec. 9 & 10, Act of Parliament, 1957 (India)

<sup>6</sup> INDIAN COPYRIGHT ACT, 1957. Sec. 38 & 38(a), Act of Parliament, 1957 (India)

<sup>7</sup> INDIAN COPYRIGHT ACT, 1957. Sec.19, Act of Parliament, 1957 (India)

<sup>8</sup> INDIAN COPYRIGHT ACT, 1957. Sec.13-18, Act of Parliament, 1957 (India)

to infringing on the individual's "musical work"<sup>9</sup> by using them without prior notice or royalties that are to be paid to the composer. The foundational legislation governing copyright in India was the INDIAN COPYRIGHT ACT of 1957.

### **Rights of Composers**

The composers hold the exclusive rights to reproduce, communicate to the public, adapt and translate their own work or lend it for the usage of others and gain royalties over it. It also includes the moral rights of the authors and the right to claim authorship of the work and to object to any distortion, mutilation, or modification of the work.

### **Exclusive Rights<sup>10</sup>**

#### **Right to Reproduce**

Composers have the exclusive right to reproduce their work in any material form, including through sound recordings and digital media.

#### **Right to Distribute**

They can distribute copies of their work to the public, including sale or rental.

#### **Right to Perform**

Composers have the right to perform their work publicly or communicate it to the public through any medium.

#### **Right to Create Derivative Works**

They can create adaptations or translations of their musical works.

### **Moral Rights<sup>11</sup>**

#### **Right of Attribution**

Composers have the right to claim authorship of their work.

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<sup>9</sup> INDIAN COPYRIGHT ACT, 1957. Sec.2(d)(v), Act of Parliament, 1957 (India)

<sup>10</sup> INDIAN COPYRIGHT ACT, 1957. Sec.14, Act of Parliament, 1957 (India)

<sup>11</sup> INDIAN COPYRIGHT ACT, 1957. Sec.17, Act of Parliament, 1957 (India)

## Right to Integrity

They can object to any distortion, mutilation, or modification that would harm their honour or reputation.

## **DURATION OF THE COPYRIGHT:**

In India, the copyright for musical works lasts for the lifetime of the composer plus 60 years after their death. This term was extended from 50 years to align with international standards under the Berne Convention.

## **Duration & Legal References by Type of Work**

Section 22<sup>12</sup>: Literary, Dramatic, Musical & Artistic Works - Life of the author + 60 years.

Section 23<sup>13</sup>: Anonymous and Pseudonymous Works - 60 years from publication (unless the author's identity becomes known).

Section 24<sup>14</sup>: Posthumous Works - 60 years from publication.

Section 25<sup>15</sup>: Works of Joint Authorship - Life of the last surviving author + 60 years.

Section 26<sup>16</sup>: Cinematographic Films, Sound Recordings, Photographs, Government Works - 60 years from publication.

Section 38<sup>17</sup>: Performance Rights - 50 years from the year following the performance.

## **ENFORCEMENT OF COMPOSERS RIGHTS**

### **Infringement and Remedies (Section 51)<sup>18</sup>**

Section 51 of the Copyright Act of 1957 details what constitutes copyright infringement. If any person does any act that violates the exclusive rights of the composer without authorisation, it is considered an infringement.

Section 55 provides for civil remedies against infringement, including injunctions, damages,

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<sup>12</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India)

<sup>13</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India)

<sup>14</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India)

<sup>15</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India)

<sup>16</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India)

<sup>17</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India)

<sup>18</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India)

and accounts of profits.

### **Penalties for Infringement (Sections 63 and 63A)<sup>19</sup>**

Section 63 outlines the penalties for copyright infringement, including imprisonment for a term not less than six months and up to three years and fines ranging from fifty thousand to two lakh rupees.

Section 63A addresses repeated infringement, increasing penalties to a minimum of one year of imprisonment and fines up to two lakh rupees.

### **Suing for Infringement (Section 55)<sup>20</sup>**

Section 55 allows the copyright owner to institute a suit seeking injunctions and damages against the infringer. This section ensures that composers can take legal action to protect their rights and seek compensation for the unauthorised use of their works.

### **Border Measures (Section 53)<sup>21</sup>**

Section 53 allows the owner of the copyright to request the Commissioner of Customs to detain infringing goods being imported into India, providing a mechanism to prevent the importation of pirated copies of musical works.

### **Police Powers (Section 64)<sup>22</sup>**

Section 64 grants the police the authority to seize infringing copies of copyrighted works without a warrant, helping to curb piracy and unauthorised distribution of music.

## **SOCIETIES AND ORGANISATIONS**

### **Copyright Societies (Section 33)<sup>23</sup>**

Section 33 of the Copyright Act 1957 provides for the formation and regulation of copyright societies. These societies are authorised to administer and enforce the rights of composers by licensing their works and collecting royalties on their behalf.

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<sup>19</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India)

<sup>20</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India)

<sup>21</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India)

<sup>22</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India)

<sup>23</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India).

**Indian Performing Right Society (IPRS)<sup>24</sup>**

The IPRS is a copyright society registered under Section 33, representing composers, lyricists, and music publishers. It collects royalties for public performances, broadcasts musical works, and distributes them to its members.

**Phonographic Performance Limited (PPL)<sup>25</sup>**

PPL is another major copyright society that manages the rights of music producers. It licenses public performance and radio broadcasting of sound recordings and ensures that royalties are collected and distributed to the rightful owners.

**Indian Singers' Rights Association (ISRA)<sup>26</sup>**

ISRA is focused on the rights of performers, specifically singers. It collects royalties for the performance of its recorded songs in public and distributes these royalties to its members, ensuring that performers are compensated for the use of their work.

**SECTION RELATED TO SOCIETIES AND ROYALTIES****Registration of Copyright Societies<sup>27</sup>**

Section 33 outlines the procedure for the registration and regulation of copyright societies by the Central Government, ensuring that societies operate transparently and fairly.

**Control over the Copyright Societies<sup>28</sup>**

Section 33A grants the government oversight over copyright societies, including the power to audit their accounts and regulate their operations, ensuring accountability in royalty collection and distribution.

**Control over the Association of Persons<sup>29</sup>**

Section 35 provides the Registrar of Copyrights with the power to regulate associations involved in the administration of copyrights, ensuring they adhere to legal standards.

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<sup>24</sup> Indian Performing Right Society (IPRS) - IPRS Official Website

<sup>25</sup> Phonographic Performance Limited (PPL) - PPL Official Website

<sup>26</sup> Indian Singers' Rights Association (ISRA) - ISRA Official Website

<sup>27</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India)

<sup>28</sup> INDIAN COPYRIGHT (Amendment) Act, 2012. Act of Parliament, 2012 (India)

<sup>29</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India)

**Dispute Resolution**<sup>30</sup>

Section 36 allows for the resolution of disputes between copyright societies and their members or users of copyrighted works, providing a legal framework for addressing conflicts.

**ONGOING FUTURE TRENDS**

The growth of artificial intelligence and machine learning opens up new issues and opportunities for copyright law, notably in terms of authorship and ownership of AI-generated works. Emerging technologies such as blockchain are being investigated for their potential to enhance copyright management and rights tracking.

**CONCLUSION**

The rights of composers in India are well protected under the Copyright Act of 1957 and its amendments. These rights enable composers to control the use of their works and ensure they receive due compensation. Adaptation to technological changes as per the usage of advancement is essential to ensure effective enforcement of composer rights. Strengthening enforcement procedures and raising awareness among composers are key steps in fostering a thriving creative economy.

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<sup>30</sup> INDIAN COPYRIGHT ACT, 1957. Act of Parliament, 1957 (India).

# REFERENCES

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1. The Copyright Act, 1957, Government of India.
2. The Copyright (Amendment) Act, 2012, Government of India.
3. Indian Performing Right Society (IPRS) - IPRS Official Website
4. Phonographic Performance Limited (PPL) - PPL Official Website
5. Indian Singers' Rights Association (ISRA) - ISRA Official Website

