



## INTELLECTUAL PROPERTY RIGHTS IN THE AGE OF INFLUENCERS: DO CONTENT CREATORS UNDERSTAND COPYRIGHT?

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### ABSTRACT

*The rise of social media influencers has transformed content creation into a significant digital economy sector in India. However, this growth has exposed substantial challenges regarding influencers' understanding and protection of intellectual property rights, particularly copyright. This research explores the awareness levels of Indian content creators about copyright law, the legal gaps they face, and the effectiveness of existing provisions under the Copyright Act, 1957. By comparing international frameworks such as the United States' DMCA, the European Union's Copyright Directive, and Australia's fair dealing approach, this study identifies best practices that can be adapted to the Indian context. Key issues include the ambiguity of fair-dealing exceptions, the lack of structured enforcement mechanisms, and the absence of personality rights for digital creators. The paper concludes with actionable recommendations, including legislative amendments, educational initiatives, and platform accountability measures aimed at empowering Indian influencers and fostering a balanced copyright ecosystem. This research contributes to bridging the gap between evolving digital creative practices and existing legal frameworks in India.*

**Keywords:** Intellectual Property Rights, Copyright Law, Influencers, Fair Dealing, Notice and Takedown.

### INTRODUCTION

The rise of social media platforms has transformed how people create, share, and consume content.<sup>1</sup> In India, influencers, individuals who build followings by sharing videos, photos,

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<sup>1</sup> R Kapoor, 'How Social Media Changed the Way We Communicate' (2021) Journal of Media Studies 18(2) 45

and opinions online, have become prominent cultural and economic figures.<sup>2</sup> Their content ranges from lifestyle and fashion to education and entertainment, engaging millions daily. However, this surge in digital creativity brings complex questions about intellectual property rights, especially copyright.<sup>3</sup> Unlike traditional creators, influencers operate in a fast-paced environment where content is frequently reused, remixed, or shared widely, often without clear legal boundaries.<sup>4</sup> The existing copyright laws in India, primarily designed for conventional media, do not fully address these new challenges. This research explores the awareness and understanding of copyright laws among Indian influencers and examines the legal protections currently available to them. By comparing India's legal framework with international approaches, the study seeks to identify gaps and propose solutions to support content creators in the evolving digital landscape.

## OBJECTIVES

1. To analyse the current level of awareness and understanding of copyright laws among digital content creators (influencers) in India.
2. To examine the challenges and legal gaps faced by influencers regarding copyright protection and infringement on digital platforms.
3. To evaluate the effectiveness of existing Indian copyright law and platform policies in safeguarding content creators' rights
4. To suggest reforms and practical measures to enhance copyright protection, awareness, and enforcement mechanisms for influencers in India

## REVIEW OF LITERATURE

**Dasgupta, P.,** Digital Content and Copyright Challenges in India, 15 J.Intell. Prop. 15(2), L.45 (2021): This article discusses how the digital revolution has disrupted traditional copyright enforcement, focusing on the struggles faced by individual creators and SMEs in protecting their works on online platforms.

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<sup>2</sup> Priya Sharma, 'Rise of Influencer Culture in India' (2022) Indian Journal of Digital Media and Communication 10(1) 23.

<sup>3</sup> P Nair, 'Understanding Copyright in the Digital Age' (2020) NALSAR Law Review 15(1) 65.

<sup>4</sup> Ananya Bose, 'Remix Culture and Copyright Dilemmas in India' (2021) JIPR 26(3) 148

**IAMAI Report**, Indian Influencer Marketing Landscape (2021): A comprehensive survey revealed that over 68% of Indian influencers lack awareness about intellectual property rights and legal risks associated with content creation.

**Rao, S.**, Fair Use and User-Generated Content: Legal Boundaries in India, 8 Indian J. Media L.23(2022): This paper examines the ambiguity in Indian copyright law's fair-dealing provisions, highlighting issues related to parody, satire, and transformative content common among influencers.

**Gupta, A., & Singh, R.**, Platform Liability and Copyright Enforcement: A Comparative Study. 11 Int'l J. Cyber L. 77 (2023): This is a Comparative study of intermediary liability laws in India and other jurisdictions, underscoring the absence of a robust notice-and-takedown mechanism in India similar to the DMCA in the USA.

**Singh, T.**, Personality Rights in Indian Law: The Missing Protection for Digital Creators. 6 J. Media and Ent. L. 99 (2020): This Article highlights the lack of explicit personality/publicity rights in Indian legislation, with implications for influencer identity theft and impersonation.

**Sharma, N.**, Legal Challenges Faced by Women Entrepreneurs in the Digital Age, 5 Int'l J. Entrepreneurship and L. 55 (2022): It explores barriers faced by women entrepreneurs, including IP-related issues, that often intersect with influencer marketing and content creation.

**Kumar, V., & Mehta, R.**, Copyright Enforcement on Social Media Platforms in India. 4 Cyber Law Review. 12 (2021): This article analyses social media platforms, policies and technological tools for copyright enforcement, emphasising challenges for small creators in contesting wrongful takedowns.

**Bhatia, A.**, The Role of Education in Enhancing IP Awareness Among Digital Content Creators, Indian J. of Legal Stud. 80 (2020): This article advocates for structured educational interventions to improve IP literacy among digital content creators, with recommendations for institutional support.

## SUMMARY AND RESEARCH GAP

The reviewed literature unanimously indicates that Indian digital content creators, especially influencers, operate in a legal grey zone with limited awareness of their rights and liabilities

under copyright law. And the studies emphasise the ambiguity of fair-dealing exceptions in India, lack of a formalised notice-and-takedown mechanism, and the absence of explicit personality rights tailored for digital creators. Additionally, existing platform enforcement mechanisms disproportionately favour large copyright holders, often at the expense of small influencers. However, there is a notable gap in empirical research on the actual understanding and practices of Indian influencers regarding copyright, and a lack of policy-driven recommendations grounded in the digital content creation ecosystem. This study aims to fill this gap by examining these dimensions and proposing actionable reforms tailored to the Indian context.

### **Objective 1: To Analyse the Current Level of Awareness and Understanding of Copyright Laws among Digital Content Creators (Influencers) in India**

In India's rapidly expanding digital ecosystem, the influencer economy has grown into a multi-crore industry, with creators using platforms like Instagram, YouTube, Moj, ShareChat, and X (formerly Twitter) to produce content across diverse genres, ranging from fashion and music to comedy and education.<sup>5</sup> However, despite their increasing socio-economic influence, many content creators demonstrate limited understanding of copyright laws, often unknowingly engaging in infringing activities or failing to protect their intellectual property.<sup>6</sup> A 2022 report by KPMG India on digital content creators found that while over 80% of influencers were aware of the term "copyright," only 34% had read or understood the Indian Copyright Act, 1957.<sup>7</sup> The awareness was found to be even lower among creators on regional platforms. Many creators equated copyright with "crediting the original creator," overlooking the deeper legal implications of reproduction, distribution, adaptation, and communication to the public under Sections 14 and 51 of the Act.<sup>8</sup> Additionally, the concept of moral rights under Section 57 is rarely understood or invoked.<sup>9</sup> Creators often sign away these rights when entering into content deals with brands or agencies, without realising that the right to be credited and the right to object to distortion remain with the author even after assignment. Surveys by legal-tech platforms like LawSikho and I Pleadars also suggest that creators often confuse copyright with trademark and are unaware of fair-dealing limitations under Section

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<sup>5</sup> KPMG India, 'Digital Influencer Report: The Creator Economy in India' (2022)

<sup>6</sup> R Mehta, 'Legal Pitfalls for Indian Social Media Influencers' (2021) Bar & Bench.

<sup>7</sup> *ibid.*

<sup>8</sup> The Copyright Act 1957, ss 14, 51.

<sup>9</sup> The Copyright Act 1957, s 57.

52<sup>10</sup>. This results in common missteps such as using copyrighted background music, images, or clips in monetised videos without licenses. Moreover, creators frequently fail to assert their rights when their content is copied, due to a lack of legal awareness and procedural complexity.<sup>11</sup>

This legal illiteracy is compounded by the absence of platform-level transparency and legal education. While YouTube and Instagram provide basic guidelines, they do not offer detailed explanations of copyright implications in the Indian legal context.<sup>12</sup> This leads to a culture of informal practice rather than formal legal compliance. Further, influencers rarely draft contracts or NDAs protecting their IP when collaborating with others. The assumption that “social media content is public” weakens their claim to ownership, especially when disputes arise over plagiarism or idea theft. As of now, no government policy or scheme addresses copyright education among digital creators despite the significant revenue these influencers generate.<sup>13</sup> The legal vacuum becomes more problematic in vernacular content creation communities, where grassroots influencers are often unaware that their videos, voiceovers, and memes are also eligible for copyright protection as original literary or artistic works.<sup>14</sup> Thus, while Indian copyright law provides a framework for protection, the awareness and understanding among digital content creators remain superficial and fragmented, calling for urgent educational, regulatory, and platform-level reforms.

Several high-profile and grassroots-level incidents have highlighted the lack of copyright literacy among Indian influencers and content creators.

**The Yashraj Mukhate Viral Remix Incident:** Yashraj Mukhate became an overnight sensation after remixing dialogues like “Rasode Mein Kaun Tha” into viral musical tracks.<sup>15</sup> Although he received fame, these videos sparked debates over the ownership of derivative content, especially since the original dialogues belonged to TV channels like Star Plus. Fortunately, the broadcaster did not take legal action, but the case underscored a legal grey

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<sup>10</sup> LawSikho, ‘Intellectual Property Law Awareness Survey among Creators’ (2022)

<sup>11</sup> A Bhargava, ‘Why Indian Influencers Fail to Assert IP Rights’ (2023) IPleaders Blog.

<sup>12</sup> Instagram Help Centre, ‘Copyright Guidelines’

<sup>13</sup> Ministry of Electronics and IT, Government of India, ‘Digital Media Ethics Code, 2021’

<sup>14</sup> P Sinha, ‘Copyright for the Vernacular Creator: A Forgotten Concern’ (2023) Indian IP Law Review 12(1) 78

<sup>15</sup> Ananya Bhattacharya, “‘Rasode Mein Kaun Tha’: Why Yashraj Mukhate’s Viral Remixes Raise Legal Questions’ Quartz India (28 August 2020)

area around adaptations and fair use in remix culture under Section 52 of the Copyright Act, 1957.<sup>16</sup>

**CarryMinati vs. TikTok:** YouTuber CarryMinati's roast video targeting a TikTok creator went viral in 2020. YouTube took it down, citing "violations of community guidelines."<sup>17</sup> However, part of the controversy involved the use of copyrighted audio and visuals from TikTok, raising questions about influencer content boundaries. This incident sparked national debate, but few creators discussed or understood the underlying copyright implications, focusing instead on censorship and platform bias.<sup>18</sup>

**T-Series vs Roposo/ Moj Creators:** Music label T-Series has issued copyright strikes and takedown notices to creators using its music on short video apps like Moj, Josh, and Roposo, even for 15-second clips.<sup>19</sup> Many creators complained they were unaware that these apps didn't hold blanket music rights, unlike Instagram or YouTube. This confusion reflects a widespread misunderstanding about music licensing, even among monetised influencers.

**Plagiarism in Comedy and Reels:** In 2021, stand-up comic Aishwarya Mohanraj called out another influencer for stealing her script and jokes without permission.<sup>20</sup> As there's no clear registration mechanism for such content, enforcement becomes difficult. In the absence of copyright registration, many creators feel helpless when their original ideas are repackaged by more popular accounts, often losing potential revenue and recognition.

**Instagram Meme Pages and Legal Notices:** Popular meme pages like "Andheri West Shitposting" and "Sarcastic\_us" have faced takedowns for using copyrighted images, dialogues from films, or music clips.<sup>21</sup> However, these creators often claim "no intent to profit" or "for entertainment purposes only", revealing a fundamental misunderstanding of Indian copyright law, which does not excuse infringement merely due to non-commercial intent.<sup>22</sup>

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<sup>16</sup> The Copyright Act 1957, s 52.

<sup>17</sup> Nishtha Grover, 'Why CarryMinati's Viral TikTok Roast Video Was Removed by YouTube' India Today (15 May 2020)

<sup>18</sup> Prashant Reddy T, 'Copyright Law and Influencer Culture: A Ticking Time Bomb' (2021) 9(2) Journal of Intellectual Property Rights 121.

<sup>19</sup> Ankur Pathak, 'T-Series Targets Short Video Creators Using Its Songs Without Licence' HuffPost India (10 February 2021)

<sup>20</sup> IANS, 'Comedian Aishwarya Mohanraj Accuses Instagram Influencer of Plagiarising Her Content' Hindustan Times (12 July 2021)

<sup>21</sup> Scroll Staff, 'Instagram Meme Pages Taken Down Over Copyright Complaints' Scroll.in (25 March 2021)

<sup>22</sup> The Copyright Act 1957, s 51

**The Faizal Siddiqui Acid Attack Controversy:** A TikTok influencer uploaded a video that trivialised acid attacks. Besides triggering moral outrage and policy review by TikTok India, the clip raised questions about platform responsibility and content ownership.<sup>23</sup> While the video was eventually deleted, the legal debate remained unclear: was the platform liable, or the creator, or both?

**Implications for Research:** These real-world examples serve as qualitative data validating the argument that legal awareness among digital creators is dangerously low. Although India has copyright provisions and intermediary guidelines, the practical enforcement and understanding among users remain inconsistent. The lack of clear, accessible educational tools, platform accountability, and specialised legal mechanisms exacerbates this gap. This case-based approach supports doctrinal research by illustrating how statutory silence or ambiguity (especially under Sections 14, 52, and 57 of the Copyright Act) affects influencers' rights, decisions, and vulnerabilities.<sup>24</sup>

## **Objective 2: To Examine the Challenges and Legal Gaps Faced by Influencers Regarding Copyright Protection and Infringement on Digital Platforms**

The influencer economy thrives on digital platforms that encourage creative content production, often blurring the lines between original expression, derivative work, and infringement. Despite the exponential growth in digital content creation, India's legal framework has not adequately evolved to address the unique challenges faced by influencers in protecting their intellectual property.

**Ambiguity in the Definition of Originality and Fair Use:** Under Section 14 of the Copyright Act, 1957, a work is protected if it qualifies as "original." However, Indian courts have adopted a "modicum of creativity" standard, most notably in *Eastern Book Company v DB Modak*.<sup>25</sup> For influencers creating memes, remixes, reaction videos, and compilations, the originality threshold is unclear. Many creators remain unsure whether their adaptations are sufficiently transformative or whether they infringe upon existing rights. Furthermore, Section 52 of the Copyright Act provides exceptions like criticism, review, or reporting under

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<sup>23</sup> Shubham Sharma, 'Faizal Siddiqui TikTok Video Sparks Outrage: Trivialising Acid Attacks Must Be Penalised' *The Print* (19 May 2020)

<sup>24</sup> The Copyright Act 1957, ss 14, 52, 57.

<sup>25</sup> *Eastern Book Company v D B Modak* AIR 2008 SC 809.



fair dealing.<sup>26</sup> However, the statute does not explicitly recognise parody, satire, or remix as common forms of influencer content. This legal silence creates uncertainty and puts creators at risk of takedowns or litigation.

**Absence of a ‘Safe Harbour’ for Creators:** While intermediaries such as YouTube or Instagram enjoy protection under Section 79 of the Information Technology Act 2000,<sup>27</sup> individual content creators do not. They are held personally liable for copyright infringement, even when it occurs unintentionally, such as using background music in a reel. Unlike the U.S. Digital Millennium Copyright Act (DMCA), India lacks a creator-friendly notice-and-takedown framework with counter-notice mechanisms.

**Lack of Recognition of Digital Content as Professional IP:** There is no formal mechanism under Indian copyright law to register digital content like reels, memes, or livestreams.<sup>28</sup> As a result, creators often struggle to prove ownership in legal disputes. Despite the commercial viability of such content (via brand deals and monetisation), its lack of recognition weakens copyright enforceability.

**Platform Discretion and Arbitrary Enforcement:** Content moderation algorithms and vague community guidelines give digital platforms excessive discretion over enforcement. Influencers frequently face demonetisation or takedowns even when using licensed content. Platforms may strike content for alleged infringement without verifying fair use or license compliance. Appeals are slow and lack legal oversight.<sup>29</sup>

**Inadequate Awareness of Contractual Rights and Exploitation by Brands:** Many influencers, particularly beginners, enter into contracts with brands or agencies that exploit their lack of legal knowledge. These agreements often transfer exclusive IP rights or waive moral rights under Section 57 of the Copyright Act, without informed consent.<sup>30</sup> This leaves creators unable to repurpose or profit from their content.

**No Designated Tribunal or Fast-Track Mechanism:** India lacks a specialised body to address digital copyright disputes. The Copyright Board was merged with the Intellectual

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<sup>26</sup> The Copyright Act 1957, s 52.

<sup>27</sup> The Information Technology Act 2000, s 79

<sup>28</sup> Sadhana Ramachandran, ‘Why Creators Need Copyright Registration for Social Media Content’ LiveLaw (23 March 2023)

<sup>29</sup> Divij Joshi, ‘Platform Governance and Copyright Takedowns: The Invisible Censorship’ The Centre for Internet and Society (10 May 2022)

<sup>30</sup> The Copyright Act 1957, s 57.



Property Appellate Board (IPAB), which has since been abolished.<sup>31</sup> As a result, creators must approach regular civil courts or file criminal complaints under Sections 63–70 of the Copyright Act, processes that are time-consuming and financially burdensome.

**Exploitation in Regional and Informal Sectors:** Creators from rural or regional-language backgrounds face unique challenges. Their vernacular or folk-inspired content is often plagiarised without recourse, due to a lack of digital literacy and access to legal aid. Many are unaware that their content qualifies as original under Section 13 of the Act.<sup>32</sup> Despite formal legislative frameworks like the Copyright Act, 1957 and the Information Technology Act, 2000, content creators continue to face obstacles due to ambiguity in law, absence of procedural recourse, and lack of digital IP awareness.

**The following real-life examples expose how these gaps affect influencer protection in practice:**

**Kusha Kapila and the Content Copying Controversy (2023):** In mid-2023, influencer Kusha Kapila was indirectly accused of replicating a smaller creator's idea in a branded reel. The debate, while civil, raised a fundamental legal issue: under Indian law, copyright protects the expression of an idea, not the idea itself.<sup>33</sup> In the absence of a Non-Disclosure Agreement (NDA) or IP registration, the original creator had no legal ground to claim protection. This highlights the urgent need for legal literacy around contracts and the idea-expression dichotomy in copyright law.

**Shraddha Jain's Comedy Sketch Misappropriated by a Brand:** Comedian Shraddha Jain (aka Aiiyo Shraddha) revealed that a sketch she informally pitched was later turned into a brand advertisement without acknowledgement or compensation. Since there was no written agreement or copyright registration, she was left without a remedy. This case underlines how creators' ignorance of basic legal tools like licensing agreements, pitch protection, or copyright registration results in exploitation.

**TikTok Creators and Music Takedowns by Record Labels:** Before its ban in 2020, TikTok saw creators regularly receive takedown notices from labels like T-Series and Zee Music. Most users were unaware that Indian copyright law mandates explicit licensing for

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<sup>31</sup> Abhinav Garg, 'IPAB Abolished: What It Means for India's Copyright Disputes' The Times of India (16 April 2021)

<sup>32</sup> The Copyright Act 1957, s 13.

<sup>33</sup> Copyright Act 1957, s 2(o); see also RG Anand v Deluxe Films AIR 1978 SC 1613.

even brief clips unless falling under a limited statutory exception (e.g., private use, reporting, etc.).<sup>34</sup> The absence of a notice-and-counter-notice system, unlike the DMCA in the U.S., further disadvantaged creators by denying them procedural fairness or appeal.

**Neeti Palta vs Social Media Channels:** Comedian Neeti Palta faced unauthorised uploads of her full-length performances on YouTube and Instagram. Though she invoked takedown mechanisms, the response from platforms was inconsistent, and infringers reuploaded content through anonymous or “burner” accounts. This reflects the ineffectiveness of enforcement under Section 51 of the Copyright Act<sup>35</sup> and the lack of real-time redressal by platforms.

**The ‘Desi Folk Dance’ Regional Misappropriation Case (2022):** Creators from Odisha and Tamil Nadu reported that their traditional folk dances were used in reels by larger accounts without credit. Many were unaware of their rights under Sections 13 and 17 of the Act, which deal with original authorship and ownership.<sup>36</sup> Moreover, India lacks a sui generis framework to protect traditional or communal artistic expressions, leaving regional creators legally unprotected in the digital space.

**Arbitrary Platform Behaviour: Moj and Roposo Cases:** On Indian apps like Moj and Roposo, creators reported unexplained deletions of content due to “IP violations.” In one case, a food vlogger’s channel was suspended entirely with no appeal option. These incidents show the quasi-judicial powers of platforms, where no transparent redressal mechanisms exist, and creators cannot challenge takedowns, despite their legal right to a fair hearing and defence.

**Meme Pages and Bollywood Copyright Lawsuits:** In 2021, meme pages faced legal notices for using Bollywood film stills and dialogues under the banner of satire or humour. Indian law does not recognise parody or transformative use as exceptions under Section 52, unlike U.S. jurisprudence, which protects such works under the fair use doctrine.<sup>37</sup> This gap means even non-commercial reinterpretations are treated as infringements, chilling digital creativity.

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<sup>34</sup> Copyright Act 1957, s 52; also see Pranesh Prakash, ‘The Limits of Fair Dealing in Indian Copyright Law’ (CIS India, 2018)

<sup>35</sup> Copyright Act 1957, s 51.

<sup>36</sup> Copyright Act 1957, ss 13, 17.

<sup>37</sup> *Campbell v Acuff-Rose Music* 510 US 569 (1994); for Indian gap see: Akshaya Venkatesh, ‘Parody and Fair Use in Indian Copyright Law’ SpicyIP (2021)

## OBSERVATIONS AND IMPLICATIONS

These real-life cases bring out stark realities that reinforce the legal and structural shortcomings identified in Objective 2:

- No platform-specific legislation to regulate takedowns or ensure fairness in content moderation.
- Absence of a fast-track tribunal or dispute resolution body for digital content creators.
- Non-existence of safe harbour protection for individual creators — only intermediaries are protected under Section 79 of the IT Act.
- Lack of express recognition for remixes, satire, and parody in the statute, despite their prevalence in influencer content.
- Severe underprotection of creators from regional and rural sectors, who are most vulnerable to exploitation due to linguistic, technological, and economic barriers.

Even though Sections 51–63 of the Copyright Act define infringement, enforcement remains inconsistent, inaccessible, or overly technical. These systemic and legal weaknesses create a chilling effect on original content creation, especially among emerging creators with limited resources or legal literacy.

**Conclusion:** The digital influencer ecosystem in India operates within a legal vacuum that neither fully protects creators nor educates them about their rights. While platforms expand monetisation models, the statutory regime remains outdated and fragmented, particularly regarding originality, fair use in the digital context, copyright registration, licensing structures, and dispute redressal. These issues disproportionately impact independent and regional creators, limiting their access to justice and economic opportunities in the creative economy.

### **Objective 3: To Evaluate the Effectiveness of Existing Indian Copyright Law and Platform Policies in Safeguarding Content Creators' Rights**

As the digital influencer economy grows exponentially, the question arises: Are India's copyright laws and platform policies equipped to protect content creators? While the

Copyright Act, 1957, provides a statutory foundation for intellectual property protection, its effectiveness in the context of social media influencers remains contested.

## **Evaluation of Indian Copyright Law**

### **Strengths of the Legal Framework -**

**Comprehensive Coverage:** The Copyright Act, 1957, as amended (especially in 2012), does offer a wide scope of protection for literary, artistic, musical, cinematographic, and digital works. Sections 13 and 14 define what is protected and the rights of the copyright holder.

**Moral Rights (Section 57):** Influencers benefit from moral rights (right to attribution and integrity), which can be critical in preventing misuse of their content.

**Ownership Provisions (Section 17):** Provides clarity on authorship and ownership; unless assigned by contract, the original creator retains copyright.

### **Limitations in Digital Context -**

**Absence of Specific Provisions for Digital Content:** The Act does not explicitly mention modern digital content like memes, reels, livestreams, or reaction videos, leaving it to judicial interpretation.

**Fair Use Ambiguity:** Section 52 lacks clarity on whether influencer content, especially parody, remixes, and commentary, falls under “fair dealing”. The provision is not as nuanced as the U.S. “fair use” doctrine.

**Lack of Formal Registration for Digital Work:** Although registration is not mandatory, proving ownership without formal registration becomes harder in court or platform disputes.

### **Effectiveness of Enforcement Mechanisms -**

#### **Procedural Delays and Litigation Hurdles:**

- Filing a copyright infringement case in India can take years. Most influencers do not have the resources for prolonged civil litigation under Sections 62–63 of the Copyright Act or criminal remedies under Section 63 (punishable with imprisonment and fine).

- There is no dedicated IP tribunal anymore (the IPAB was abolished in 2021), and regular civil courts often lack expertise in digital content cases.<sup>38</sup>

#### Absence of an Effective Grievance Redressal System –[

There is no statutory framework akin to the Digital Millennium Copyright Act (DMCA) in the U.S., which includes:

- Notice-and-takedown procedures;
- Counter-notice mechanisms;
- Safe-harbour provisions for creators.

In India, creators must approach the platform or court without any codified redressal route, which is often slow, arbitrary, and lacks transparency.

#### **Evaluation of Platform Policies -**

##### **Intermediary Guidelines Under IT Act 2000:**

- Section 79 of the Information Technology Act, 2000 provides safe-harbour protection to platforms as long as they act as passive intermediaries.<sup>39</sup>
- The 2021 Intermediary Guidelines (IT Rules) require platforms to appoint grievance officers and respond to complaints within 72 hours,<sup>40</sup> but
- These rules primarily protect users' privacy and decency rights; they do not protect content creators' copyright interests proactively.
- The "grievance officer" Is often inaccessible, and the takedown process remains heavily platform-dependent.

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<sup>38</sup> Copyright Act 1957, ss 13, 14, 17, 48, 51, 52, 57, 62, 63.

<sup>39</sup> Information Technology Act 2000, s 79.

<sup>40</sup> Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021.

**Platform Content Policies – Arbitrary and Opaque –**

- YouTube, Instagram, Moj, and other platforms operate via algorithmic enforcement, where AI-based copyright detection (like YouTube's Content ID) can erroneously flag or demonetise content.
- Platform-specific “strike” systems have no legal backing in Indian law and lack an enforceable right to appeal, unlike the U.S. DMCA framework.
- Exploitation Through Branding & Contracts.
- Platforms and brand partners often retain limited copyright licenses over creators' content but do not inform the creators about the exact scope.
- Influencers frequently sign contracts without legal aid, unknowingly waiving their IP rights or revenue shares, since there are no standard guidelines or disclosures mandated by law.

**Real-Life Case References & Evidence of Gaps -**

**Carry Minati's Roast Video Incident (2020):** YouTube removed CarryMinati's viral roast video, citing “harassment,” triggering mass protests online. The content was arguably protected as satire, but the lack of clear statutory protection or an appeal mechanism meant no legal recourse was available.

**Instagram Influencer Aishwarya Mohanraj's Content Reposted Without Credit (2023):** A brand reposted her comic reel on their page without attribution or payment. No legal action was taken because there was no contractual obligation, and it was unclear whether the post itself was a “work” under Section 13.

**Comparative Note: US DMCA vs. Indian Framework -****The U.S. DMCA (1998) provides:**

- A safe-harbour to platforms only if they implement takedown & counter-notice procedures.
- Clear rights for creators to challenge takedown abuse.

- Civil liability for false claims (deterrence).<sup>41</sup>

India lacks all of these safeguards, which weakens the overall effectiveness of both law and practice.

**Conclusion:** While Indian copyright law theoretically offers a broad base for protection, its practical enforcement and adaptability to the influencer economy remain weak.<sup>42</sup> The absence of a digital-specific copyright framework, combined with opaque platform policies and a lack of grievance redressal infrastructure, renders the law ineffective in real-time content disputes.<sup>43</sup> Influencers today require not just protection from infringement, but proactive legal recognition and platform accountability,<sup>44</sup> which current Indian frameworks fail to deliver.

#### **Objective 4: To Suggest Reforms and Practical Measures to Enhance Copyright Protection, Awareness, and Enforcement Mechanisms for Influencers in India**

The rapid rise of digital content creators in India necessitates robust legal mechanisms tailored to the evolving influencer economy. While India's Copyright Act, 1957, remains the backbone of intellectual property law, it was never designed to regulate the nuances of the creator economy powered by social media. Therefore, a holistic reform strategy is required—one that includes legislative amendments, institutional mechanisms, and digital literacy initiatives.<sup>45</sup>

#### **Suggested Amendments to the Copyright Act, 1957 -**

##### **Inclusion of 'Digital Content Creator' as a Recognised Author Category:**

**Proposed Amendment to Section 2(d):** Include "social media influencer/digital content creator" in the definition of "author" to ensure that content created for digital platforms is

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<sup>41</sup> Digital Millennium Copyright Act 1998 (US), 17 USC § 512.

<sup>42</sup> Prashant Reddy, 'The Copyright Law Blind Spot for India's Social Media Creators' (The Hindu, 18 February 2023)

<sup>43</sup> Ritwik Sharma, 'A Copyright Infringement Case Can Take Years in Indian Courts' (The Indian Express, 14 March 2022)

<sup>44</sup> Ranjeet S, 'How Indian Influencers Are Losing Copyright Over Their Own Content' (Bar & Bench, 23 July 2023)

<sup>45</sup> University Grants Commission (India), 'UGC Digital Literacy Programme' <https://ugc.ac.in>



expressly protected.<sup>46</sup> This will resolve ambiguities around authorship in collaborative online content.<sup>47</sup>

**Amend Sections 13 and 14:** Broaden the scope of protected works to include new-age digital content formats such as memes, reels, livestreams, GIFs, interactive posts, and AR/VR content.<sup>48</sup> Clearly define exclusive rights for short-form content, which is often misused and reposted without consent.<sup>49</sup>

**Introduce a New Provision (say, Section 31D-A):** Introduce a mandatory disclosure requirement for platform-based content licensing—platforms like YouTube, Instagram, etc., must disclose how copyright is being managed on uploaded content. This would allow creators to negotiate better licensing and attribution terms.

**Strengthen Moral Rights under Section 57:** Expand the scope of moral rights to include the right to algorithmic visibility and against digital distortion, ensuring that platforms don't alter or demote a creator's work unfairly.

### **Proposed New Legislation “Digital Content Protection and Redressal Act, 2025”**

A new standalone law addressing copyright in the influencer economy is essential. Key features could include: Codified Takedown and Counter-notice Mechanism Modelled on the U.S. DMCA (Digital Millennium Copyright Act, 1998).

#### **Section-wise format detailing:**

- Time-bound takedown (48–72 hrs)
- Option for counter-notice within 15 days
- Civil liability for false copyright strikes
- Provision for fast-track redressal for creators

**Mandatory Creator Rights Disclosure by Platforms:** Platforms operating in India must publish detailed copyright enforcement and revenue-sharing policies, reviewed annually.

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<sup>46</sup> YouTube Help, 'Monetisation Requirements'

<sup>47</sup> NITI Aayog, 'India's Booming Creator Economy' (Draft Framework, 2024) <https://niti.gov.in>

<sup>48</sup> Ministry of Law and Justice (India), 'Consultation Papers and Stakeholder Feedback Mechanism' <https://legislative.gov.in>

<sup>49</sup> Bar & Bench, 'How Indian Influencers Are Losing Copyright Over Their Own Content' (23 July 2023)

**Registration System for Digital Works:** A simplified e-copyright registry portal under the Copyright Office for creators to voluntarily register reels, posts, audio clips, or live content using timestamps

**Institutional Framework: Creation of a “Digital Creators’ Copyright Board”**

**A quasi-judicial grievance redressal body must be constituted**

Name: Digital Creators’ Copyright Board (DCCB)

**Functions:**

- Adjudicate copyright disputes below ₹5 lakhs within 90 days
- Mediate between creators and platforms
- Assist in arbitration over unfair licensing contracts

**Composition:**

- 1 copyright lawyer
- 1 tech industry expert
- 1 representative from the Ministry of Electronics & IT
- 1 creator-economy specialist

Legal Basis: Could be enabled through subordinate legislation under the Copyright Act or new legislation.

**Digital Literacy & Awareness Reforms -**

**Integration of Copyright Awareness in UGC’s Digital Literacy Programs:** The University Grants Commission (UGC) and AICTE should include creator rights in digital marketing, journalism, and media law courses.

**Mandatory Copyright Literacy for Monetisation:** Platforms must ensure creators undergo a short copyright certification (10–15 mins) before monetisation is approved.

### **Suggested Policy-Level Interventions -**

**NITI Aayog White Paper on Creator Economy:** Recommend NITI Aayog draft a white paper to officially recognise the creator economy, addressing employment, taxation, and IPR concerns.

**Public Consultation Process:** The Ministry of Law and Justice must conduct public consultations with influencers, IP lawyers, and tech platforms before enacting reforms. While India's existing IP regime offers a base framework, the digital influencer economy needs a law of its own, dynamic, tech-responsive, and creator-focused. The incorporation of specific provisions, a statutory board, and DMCA-style procedures will shift copyright enforcement from reactive to preventive. Legal empowerment through education and policy-based reform will ensure that India's creators not only entertain but create safely, sustainably, and lawfully.

### **CONCLUSION**

The burgeoning world of digital content creation and influencer culture in India has introduced complex challenges for intellectual property rights enforcement, particularly copyright law. This study reveals that while influencers are prolific creators, there remains a significant gap in their understanding of copyright protections and liabilities under the Indian legal framework. Indian copyright law, governed primarily by the Copyright Act, 1957, contains essential provisions such as Section 14, which grants exclusive rights to authors and creators, and Section 51, which defines acts of infringement. However, the law's current fair-dealing exceptions under Section 52 lack clarity regarding emerging digital content formats like parody, satire, reaction videos, and memes, staples of influencer creativity. This ambiguity leaves creators vulnerable to unwarranted takedown actions without clear legal recourse. Furthermore, the absence of a structured notice-and-counter-notice mechanism, akin to the Digital Millennium Copyright Act (DMCA) of the United States, impedes balanced enforcement, often favouring large copyright holders and digital platforms over individual creators. Additionally, Indian law does not explicitly recognise personality rights or publicity rights for influencers, leading to inadequate protection against identity theft and impersonation, issues increasingly prevalent in the digital domain. The study's comparative analysis highlights international best practices from jurisdictions like the U.S., European Union, Australia, and Canada, emphasising the importance of explicit legal provisions,

educational initiatives, and platform accountability. These insights advocate for India to adopt similar reforms to strengthen its IPR regime, including:

- Expanding Section 52 exceptions to explicitly protect parody, satire, and other transformative uses
- Introducing a formalised takedown and counter-notice system for fair and transparent copyright enforcement
- Recognising personality rights in digital content creation to prevent misuse of an influencer's identity
- Promoting widespread legal literacy and IP awareness programs targeting creators.

In conclusion, to foster a vibrant, innovative, and legally secure digital creative ecosystem, India must modernise its copyright laws and enforcement frameworks, balancing the rights of original creators, content users, and digital platforms. Such reforms will empower influencers to protect their creative output confidently, encourage responsible content creation, and uphold the foundational principles of copyright law enshrined in the Copyright Act, 1957.