



## COPYRIGHT, COMMERCE AND CONSTITUTION: BALANCING MUSICAL INNOVATION WITH ARTICLE 21 OF THE INDIAN CONSTITUTION

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### RESEARCH ARTICLE



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#### Abstract

In India, the tension between copyright laws and musical innovation often stifles creativity due to commercial interests. Although copyright aims to protect the rights of creators, it can inadvertently limit the capacity of musicians to innovate and be inspired by existing works. Article 21, however, embodies the right to life and personal freedom, extending to individual creativity. This legal framework protects the freedom of artists to express themselves without undue restrictions. Balance this protection with the requirements of commercial interests remains crucial; otherwise, the dynamism of the musical landscape of India can be undermined, limiting evolution and cultural expression.

**Keywords:** *Copyright, Laws, Musicians, Creativity, Commercial Interest*

#### Introduction

Music, as an aspect deeply anchored by cultural heritage, serves not only as an artistic form of expression, but also as an important economic asset in the dynamic socio-economic landscape of India. The music industry in India, characterized by its various genres and rich traditions, generates substantial income and provides jobs to millions, thus playing an essential role in the country's economic framework. In light of these factors, it is imperative to examine how the law on copyright in India, designed to protect the rights of creators, interacts with the commercial motivations of various stakeholders, including producers, distributors and consumers. Article 21 of the Indian Constitution guarantees the right to life and personal liberty, which has been largely interpreted by the judiciary to encompass the right to live with dignity and to continue its aspirations. The music industry operates in a dynamic environment where the marketing of artistic works can often lead to potential conflicts with the fundamental rights of artists and consumers.

In the evolutionary landscape of digital technologies and online streaming platforms, the issues are still amplified, because traditional copyright paradigms encounter new challenges that require reassessment. The tension between the protection of intellectual property and the promotion of a culture of accessibility and collaboration is a recurring theme that underpins discourse on musical innovation in India. The commercial interests of companies juxtaposed to the individual rights of artists raise important ethical considerations which justify an in-depth investigation. Thus, the importance of this research lies in its potential to elucidate how the synergy between the law on copyright, commercial dynamics and constitutional rights can encourage an environment conducive to musical creativity and expression, ultimately enriching India's cultural fabric while protecting the rights of individual creators.

This analysis will establish a theoretical framework to understand the implications of current legal structures on the music industry, explore the case studies that illustrate the complexities of the course of these interactions and assess the effectiveness of the regulatory mechanisms existing in the development of innovation. The history of the law on copyright in India is characterized by a progressive evolution which has sought to balance the interests of creators, commercial and public enterprises. The initial copyright framework was established under the 1957 Copyright Law, which was adopted in the context of a newly independent India which aimed to promote creativity while responding simultaneously to national concerns surrounding economic development and cultural identity.

#### Copyright and Indian Music Industry

The interaction between the law on copyright and commercial interests in the India music industry has a double story. On the one hand, solid protection against copyright has been presented as essential to encourage investments in the music sector, as

record companies and producers are motivated to feed talent by financial support when they have legal insurance management. This investment is particularly important in a market that sees an increase in independent artists who seek traditional recognition. Conversely, the commercial interests underlying the law on copyright can present challenges to individual rights, in particular concerning access to music.

The Indian copyright landscape has undergone substantial changes in response to the rapid globalization of the music industry and the advent of digital technology. The most recent legislative updates have been encapsulated in the Indian Copyright (Amendment) Act, 2023, which aimed to solve the persistent problems of adaptability and application in an increasingly digital and interconnected world. Above all, this law recognizes the need for provisions for fair use which allow a limited use of works protected by copyright without payment, thus promoting an environment where innovation can prosper.

The relevance of the law on copyright for the music industry is directly linked to article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. The intersection of the law on copyright and article 21 raises profound questions about the balance between the protection of individual rights and the promotion of artistic freedom. The right to create and innovate in the field of music must coexist with the rights of creators to receive the recognition and remuneration of their work. The legal dilemmas surrounding these rights have complex challenges for political decision-makers responsible for manufacturing effective copyright legislation which successfully promotes musical innovation while protecting individual rights. The marketing of music has led to predominant attention to the strategies to maximize profit often at the expense of artistic expression and innovation. The main record labels, publishers and distributors give priority to marketability, thus modelling the creative processes of the artists to align with the prevalent trends and the needs of consumers. With the advent of digital platforms, artists often find themselves navigating in a landscape labyrinth designed in an analogue era. The research conducted by Singh and Vinjamuri (2024) underlines that financial motivations can dictate not only the production of music, but also the very nature of what is produced, suggesting that the interaction between artistic integrity and commercial imperative is full of tension. This environment often favours the established entities with resources to enforce their rights rather than emerging artists who strive to innovate in a picture that apparently limits rather than supporting their creative production. Bhowmik and Malhotra (2022) highlight cases in which the aggressive application of copyright laws has led to a chilling effect on musical experimentation, discouraging artists from pushing boundaries in an attempt to avoid legal repercussions.

Remarkably, the relationship between copyright and article 21 is especially pronounced in the context of musical innovation. Musicians not only create art; they express their identities, cultures and experiences through their work. When the copyright law restricts access to musical compositions or imposes onerous licensing rates, it can stifle an artist's ability to communicate and engage with society. This phenomenon raises essential consultations on how copyright legislation can inadvertently impair article 21, reducing the essential artistic freedoms for self-expression and the personal development of an individual.

### **Commerce and Creativity: Legal and Ethical Tensions**

The navigation of tensions between copyright law, commercial interests and individual rights through the aim of article 21 remains an urgent challenge within the Indian music industry. An increase in collaborative mechanisms and flexible legal structures can better serve the double objectives for the protection of creators and promote fertile ground for musical innovation. The current speech that surrounds these issues will be fundamental since India continues to evolve as a significant actor in the global music scene, balancing the need for individual rights with the imperative of creative evolution. The digital transformation of the music industry has caused opportunities and challenges, creating a paradigm change in the way music is produced, distributed and consumed. This landscape required a review of the Act respecting copyright, in particular concerning its effectiveness in resolving piracy and unauthorized access to content. Digital platforms have considerably reduced the obstacles to entry for creators and consumers, which leads to an unprecedented proliferation of musical works. However, this democratization of access has a pronounced cost; the unauthorized reproduction and distribution of music complicate the application of copyright, thus threatening the financial viability of the creators and the sustainability of the industry. In their examination of the current legal framework, Priyadarshan and Bhadoria (2024) argue that existing copyright laws in India, which have been designed for a pre-numerical era, are poorly equipped to combat the challenges posed by digital hacking. The authors point out that existing regulatory frameworks, such as the 1957 Copyright Act, have failed to evolve in tandem with technological progress, leaving significant gaps that exploiters can manipulate. They identify a "legal emptiness", where the protection of individual rights becomes secondary to the commercial interests of digital platforms.

To browse the complexities of the digital era, the authors offer a change to proactive regulatory mechanisms that incorporate technological solutions, such as digital rights management (DRM) and blockchain technology, to improve copyright application. These technologies could offer innovative paths to follow the property and the use of musical works, thus reducing hacking cases and promoting a more equitable landscape for musicians. In this context, it is imperative to find a balance which not only safeguard individual rights but also promotes an environment conducive to creative exploration and commercial viability, ensuring that the digital transformation in class serves as a catalyst for musical innovation rather than its obstacle.

Though the copyright laws aim to establish a balance between protection of artists and the service of commercial interests, it is not without deficiencies. But the absence of uniformity in the distribution of royalty and the prevalence of contractual exploitation often decreases the economic benefits to which artists have the right, limiting their ability to innovate (Bansal, 2024). This disparity between the legal protections offered and the real economic realities for many artists is an urgent question that deserves

further examination. The effectiveness of current copyright laws in the protection of artists' rights is directly related to their ability to contribute creatively to the music scene.

### **Constitutional Dimensions: Article 21 and Artistic Freedom**

The protection of artistic expression can be interpreted in this constitutional framework, strengthening the topic that artists do not only have a legal right to their economic interests, but also an intrinsic right to innovate. However, the challenge persists in the reconciliation of these rights with the commercial dictates of the sector. While article 21 can provide a basic guarantee for the personal and creative freedoms of the artists, the harsh realities of the music industry can often threaten these freedoms through large copyright agreements that impose restrictions on artistic expression. By examining the interactions between copyright law, commercial interests and constitutional rights, it becomes evident that a more nuanced approach is needed to cultivate an environment that not only protects individual artists, but also promotes a vibrant and innovative musical ecosystem. The advent of emerging technological innovations has significantly restructured the panorama of the application of copyright, particularly within the scope of musical production and distribution. This section seeks to evaluate the double role of technology as an enhancer of artistic innovation and a complicating factor in the traditional frameworks of the application of copyright.

Considerable advances in musical production tools, such as digital audio work stations (DAWs), synthesizers and sample libraries, have democratized music creation. Artists of various origins can now produce high quality content from the comfort of their homes, which leads to an explosion of creativity and new musical forms. The integration of artificial intelligence (AI) in musical creation presents another layer of complexity. AI can analyse existing musical works and synthesize new compositions, which can violate the rights of original creators, while pushing the limits of what constitutes originality in music. As Chakravarthy (2025) points out, conventional legal frameworks surrounding copyright fight to adapt to these innovations, emphasizing the need to reassess the existing laws to account for the challenges presented by new technologies. The need for a balance that allows musical innovation while respecting and safeguarding individual rights remains essential in this context.

The results indicate that current copyright frameworks require reform to better accommodate the unique characteristic of musical creativity, which is inherently collaborative and dynamic. The guarantee of article 21 of the right to life and personal freedom covers the right to lead a decent life, which, in the context of musicians, extends to the creative expression that contributes to their identity and socio-economic stability.

### **Finding the Balance between Copyright Laws and Right to Life in the age of AI**

Future policy reforms should consider adopting a more adaptive copyright model that incorporates a stepped approach, where variable protection levels can be provided based on commercial intention and the artistic contribution of a job. For example, practices such as voluntary license or collective management can be very beneficial in facilitating the exchange of musical works while providing fair financial compensation to creators, thus harmonizing commercial interests with individual rights. Also, the comparative ideas obtained from international copyright models, such as the doctrine of fair use that prevails in the United States and fair-trade dispositions observed in the United Kingdom and Australia, could serve as informative reference points for India. These models offer frames that balance protection with accessibility, which suggests that India could explore similar channels to improve their copyright legislation. The role of the Judiciary in the interpretation of the scope of copyright while defending fundamental rights under article 21 for these reforms. As the legal precedents evolve, they are likely to play a fundamental role in the configuration of innovative abilities of the music industry.

### **Conclusion**

Future research addresses could deepen the socio-cultural implications of copyright reforms in various musical forms within India, particularly marginalized genres that could fight under commercial pressures. There is still a significant gap in the understanding of how these dynamics affect regional and popular music, which are vital components of the rich cultural tapestry of India. Promoting musical innovation within the unique legal framework of India implies a rigorous examination of the coexistence of the copyright law, commercial imperatives and the promise of article 21 of individual rights. The forward path requires not only legal reforms, but also a continuous dialogue between interested parties to ensure that creativity flourish in an environment that respects and protects the rights of people while encouraging the commercial vitality of the music industry.

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### **References**

1. Singh, A.P. & Vinjamuri, L.P. (2024). Intellectual Property Rights in India: A Study with Special References to Music Industry. *International Journal of Law Management and Humanities*, 7(3), 2237-2256. <https://ijlmh.com/paper/intellectual-property-rights-in-india-a-study-with-special-references-to-music-industry/>

2. Bhowmik, D. & Malhotra, P.K. (2024). The Neoteric Vision of Copyright Infringement in Contemporary India. *Alliance Journal of Intellectual Property Law*, 2(1), 1-19. <https://www.alliance.edu.in/research/AJIPL/ajipl-2024/assets/pdf/the-neoteric-vision-of-copyright-infringement-in-contemporary-india.pdf>.
3. Priyadarshan, C. & Bhadoria, G. (2024). Unveiling the Dynamics of Digital Copyright: A Qualitative Analysis of Piracy of Creative Works in India. *International Journal of Law Management and Humanities*, 7(2), 327-378. <https://ijlmh.com/paper/unveiling-the-dynamics-of-digital-copyright-a-qualitative-analysis-of-piracy-of-creative-works-in-india/>
4. Sahoo, B. & Sakalkar, R. (2024). Judicial Approaches to Music Copyright Infringement in India: A Case Study-Based Analysis. *Library Progress International*, 44(3), 9489-9497. <https://bpasjournals.com/library-science/index.php/journal/article/view/2144/1391>
5. Bansal, K. (2024). *Copyright Law and Performers' Rights in the Entertainment Industry: A Case Study Analysis of India and Australia* [DPhil thesis, Swinburne University of Technology]. [https://figshare.swinburne.edu.au/articles/thesis/Copyright\\_Law\\_and\\_Performers\\_Rights\\_in\\_the\\_Entertainment\\_Industry\\_A\\_Case\\_Study\\_Analysis\\_of\\_India\\_and\\_Australia/26282020?file=47646445](https://figshare.swinburne.edu.au/articles/thesis/Copyright_Law_and_Performers_Rights_in_the_Entertainment_Industry_A_Case_Study_Analysis_of_India_and_Australia/26282020?file=47646445)
6. Chakravarthy, G.A. (2023). An assessment of Emerging Forms of Technological Innovations in Justice Delivery Mechanism. *NALSAR Law Review*, 8(2), 1-14.

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