



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

MEDIA AND ENTERTAINMENT LAW IN INDIA: **NAVIGATING LEGAL CHALLENGES IN THE** **DIGITAL ERA**

AUTHORED BY - AISHWARYA GIRITHARAN

Abstract:

Media and entertainment law is a dynamic and constantly evolving area that addresses fundamental issues such as intellectual property rights, freedom of expression, privacy, and the complexities of contracts. With the rapid development of digital platforms, these challenges have become even more severe, particularly in negotiating and enforcing entertainment contracts. These contracts are the backbone of the entertainment industry, governing the interactions between producers, creators, distributors, and other stakeholders while mixing equity and innovation. This research paper delves into the complex role of contracts in the entertainment industry. It examines essential features like negotiation of rights, arrangements for sharing profits, intellectual property issues, and methods for resolving conflicts. The study also examines how emerging media technologies such as streaming services, social media influencers, and artificial intelligence are transforming traditional contracting practices and imposing new legal challenges. Additionally, the paper discusses international legal concerns, such as jurisdictional clashes and enforcement of agreements across borders, which have grown to become more important in our globalized media world. Through studying cases and changing legal precedents, this study explains how courts and industry stakeholders approach these issues in an effort to balance creativity and legal compliance. The research points to the importance of having properly structured and enforceable contracts that foster transparency, accountability, and fair treatment within the media and entertainment sectors. It demands adaptive legal frameworks that keep up with advances in technology and shifting industry standards. Finally, this research highlights the essential role that media and entertainment law plays in fostering sustainable growth, protecting creative endeavors, and maintaining ethical conduct in the globally networked environment.

1. Introduction

Media and entertainment law in India governs a wide array of legal concerns spanning from content creation to distribution across multiple platforms—cinema, television, OTT (Over-the-Top) platforms, music, theatre, and digital media. It is a convergence of intellectual property, contract, tort, criminal, constitutional, and cyber laws, shaping the legal architecture of a sector known for rapid innovation. The explosion of digital content consumption, rise of content creators and influencers, international collaborations, and user-generated content have brought new dimensions to the legal discourse.

India's entertainment industry is the fifth-largest in the world, and its rapid growth has triggered concerns about the regulation of content, creators' rights, and consumer protection. Legal tools must evolve to match this dynamism. For instance, questions arise about the regulation of political advertisements on OTT platforms during elections, or the liability of streaming services for defamatory content.

2. Intellectual Property Rights (IPR) in Entertainment

IPR ensures that creators and producers of entertainment content are compensated and credited for their work. Protection of original content not only fuels innovation but ensures fair market practices.

2.1 Copyright Law Copyright protection under the Copyright Act, 1957 ensures that creators such as authors, composers, film producers, and choreographers have exclusive rights to reproduce, distribute, and license their works. Section 13 of the Act protects literary, musical, dramatic, and cinematographic works.

Case Example: Super Cassettes Industries Ltd. v. Music Broadcast Pvt. Ltd. (2011) In this case, the Delhi High Court clarified licensing norms under compulsory licensing provisions of Section 31 of the Act, highlighting fair remuneration to copyright holders. The court emphasized that market-based royalty structures cannot be undermined by statutory licensing.

2.2 Moral Rights and Performer's Rights Section 57 recognizes the moral rights of authors, allowing them to claim authorship and restrain distortion of their work. Performers' rights, added via the 2012 amendment, include economic rights over performances.

Example: Amar Nath Sehgal v. Union of India (2005) The Delhi High Court recognized moral rights in the context of a mural being destroyed by the government. This highlighted the inviolable right of an artist to protect their creative integrity.

2.3 Trademarks in Entertainment Trademarks provide branding tools that help protect names of films, characters, and shows.

Case Law: Zee Entertainment Enterprises Ltd. v. Gajendra Singh (2008) The court restrained use of a deceptively similar title to a TV reality show. This case solidified the notion that show formats and names can acquire secondary meaning, hence qualifying for trademark protection.

3. Freedom of Expression and Content Regulation

3.1 Article 19(1)(a) and Reasonable Restrictions under Article 19(2) Freedom of expression is a cornerstone of democratic societies. However, Indian constitutional jurisprudence provides for reasonable restrictions in the interests of morality, decency, public order, and state security.

Case Law: S. Rangarajan v. P. Jagjivan Ram (1989) The Supreme Court observed that tolerance is the cornerstone of free speech and that censorship must only occur where there is a clear and present danger.

3.2 Cinematograph Act, 1952 and CBFC The Act governs the certification of films for public exhibition. CBFC operates under the Ministry of Information and Broadcasting.

Example: Udta Punjab (2016) The film faced extensive cuts by the CBFC for depicting drug abuse in Punjab. The Bombay High Court ordered minimal cuts, emphasizing artistic freedom.

3.3 OTT Regulation and the 2021 IT Rules The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 marked the first regulatory framework for OTT platforms.

Case Law: Amazon Prime and Tandav (2021) The series sparked controversy and led to multiple FIRs under IPC sections. The producers had to issue apologies and make content edits under pressure from the government.

4. Privacy, Personality Rights and Defamation

4.1 Unauthorized Use of Personality With increasing digital reach, personality merchandising has increased. Unauthorized use of a celebrity's name, image, or voice can violate privacy and publicity rights.

Case Law: Titan Industries Ltd. v. M/s Ramkumar Jewellers (2012) The Delhi High Court held that using images of Amitabh Bachchan and Jaya Bachchan without consent for advertising was a violation of their personality rights.

4.2 Fake News and Online Defamation Digital platforms enable rapid spread of misinformation. The challenge lies in balancing regulation and free expression.

Example: Republic TV & the Sushant Singh Rajput case Media coverage led to allegations of character assassination of film personalities. Calls for stronger broadcasting content standards were reignited.

5. Contracts in the Entertainment Sector Contracts form the legal spine of the entertainment industry.

5.1 Common Types and Clauses

- **Talent Agreements:** Specify scope of performance, duration, exclusivity.
- **Production Agreements:** Cover pre-production to post-production responsibilities.
- **Distribution Agreements:** Define rights for regional and digital distribution.
- **Merchandising Agreements:** Allow for licensed use of names/images on products.

Clauses:

- **Royalty:** Payment models based on percentage profits or fixed amounts.
- **Exclusivity and Non-Compete:** To prevent talent from working with competitors.
- **IP Assignment:** Ensures that producers own rights created under the contract.

Case Law: Phantom Films Dispute (2018) Issues of sexual harassment led to a fallout between co-founders. The absence of moral turpitude clauses highlighted gaps in employment contracts.

5.2 Dispute Resolution Mechanisms Contracts often include arbitration clauses to ensure fast, private resolutions.

Example: Viacom18 v. YouTube (2012) A dispute over copyrighted content led to takedown demands. The case reiterated the need for swift resolution mechanisms in the age of instant

content dissemination.

6. Technology Disruptions and Legal Gaps

6.1 Streaming Platforms Content ownership, rights clearance, and territory-based licensing need clear documentation. Ambiguity leads to legal disputes.

6.2 Influencer Economy ASCI guidelines mandate disclosure of paid partnerships. Failure to do so may invoke consumer protection law violations.

6.3 Artificial Intelligence and Creative Content AI-generated music, art, and scripts raise IP questions. If no human author is involved, who owns the copyright?

Global Comparison: UK and US laws are moving toward granting limited rights for AI-assisted works, but India remains silent on the matter.

7. Cross-Border and International Law Concerns

7.1 Jurisdiction Content consumed globally creates jurisdictional conflicts.

Case Law: Swami Ramdev v. Facebook Inc. (2019) The Delhi High Court ruled that global takedowns may be ordered by Indian courts, setting a precedent for extraterritorial enforcement.

7.2 Licensing and International Copyright Treaties India is a signatory to the Berne Convention and TRIPS Agreement. Licensing foreign content involves compliance with multiple jurisdictions.

8. Jurisprudential Evolution and Aspects of Media and Entertainment Law

The jurisprudence surrounding media and entertainment law in India reflects a growing recognition of the interplay between constitutional rights and commercial interests. Initially, jurisprudence centered on censorship and content regulation under the Cinematograph Act, but gradually evolved to include nuanced aspects of intellectual property and contractual obligations.

From Colonial Censorship to Free Speech: In early post-independence judgments, courts supported censorship to preserve social order. Over time, this shifted with landmark cases like

Rangarajan, which emphasized the need for judicial tolerance in artistic freedom.

Integration with Privacy Jurisprudence: The landmark judgment in *K.S. Puttaswamy v. Union of India* (2017) constitutionalized the right to privacy. This ruling has major implications for media houses dealing with private data, sting operations, and tabloid journalism.

Digital Transition and Judicial Activism: In recent years, courts have had to interpret existing laws in light of emerging technologies. In *Padmanabh Shankar v. Union of India*, the Madras High Court emphasized the need to regulate digital content platforms without curbing creative freedom.

Emergence of Public Interest Litigation (PIL): The Supreme Court has entertained PILs on media trials, hate speech, and obscenity. The jurisprudence now increasingly aims to balance the dignity of individuals with public interest, especially in celebrity-related cases. This evolution demonstrates the Indian judiciary's attempt to construct a media law jurisprudence rooted in constitutional morality, global norms, and technological adaptability.

9. Towards Adaptive Legal Frameworks

9.1 Codification of Media Law Experts have called for a unified Media Regulation Code to address scattered legal provisions.

9.2 Self-Regulation and Soft Law Bodies like the News Broadcasters Federation and Digital News Publishers Association promote ethical standards.

9.3 Law Commission Recommendations Reports advocate for hate speech regulation, media accountability, and protection of journalistic freedom.

10. Conclusion

The Indian media and entertainment landscape is at the cusp of a digital revolution. Laws must ensure that innovation does not occur at the cost of ethical compromise or legal ambiguity. Balanced, inclusive, and adaptive legal tools are essential to foster growth while safeguarding rights of creators, investors, and consumers.

Footnotes:

1. Copyright Act, 1957, Section 13.
2. Trade Marks Act, 1999.
3. Indian Performing Rights Society v. Aditya Pandey, (2012) 50 PTC 251 (Del).
4. Sholay Media and Entertainment Pvt. Ltd. v. Parag Sanghavi, 2016 SCC OnLine Bom 9934.
5. S. Rangarajan v. P. Jagjivan Ram, AIR 1989 SC 1493.
6. K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.
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8. D.M. Entertainment v. Baby Gift House, 2003 (26) PTC 209 (Del).
9. Super Cassettes v. Music Broadcast, 2011 SCC OnLine Del 3028.
10. ASCI Guidelines for Influencers, 2021.
11. Amar Nath Sehgal v. Union of India, 117 (2005) DLT 717.
12. Swami Ramdev v. Facebook Inc., 2019 SCC OnLine Del 10701.
13. Titan Industries Ltd. v. M/s Ramkumar Jewellers, 2012 SCC OnLine Del 2382.

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