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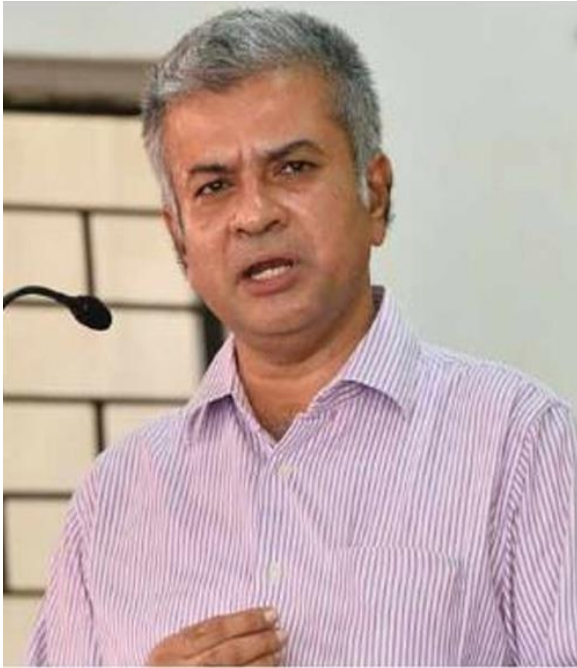


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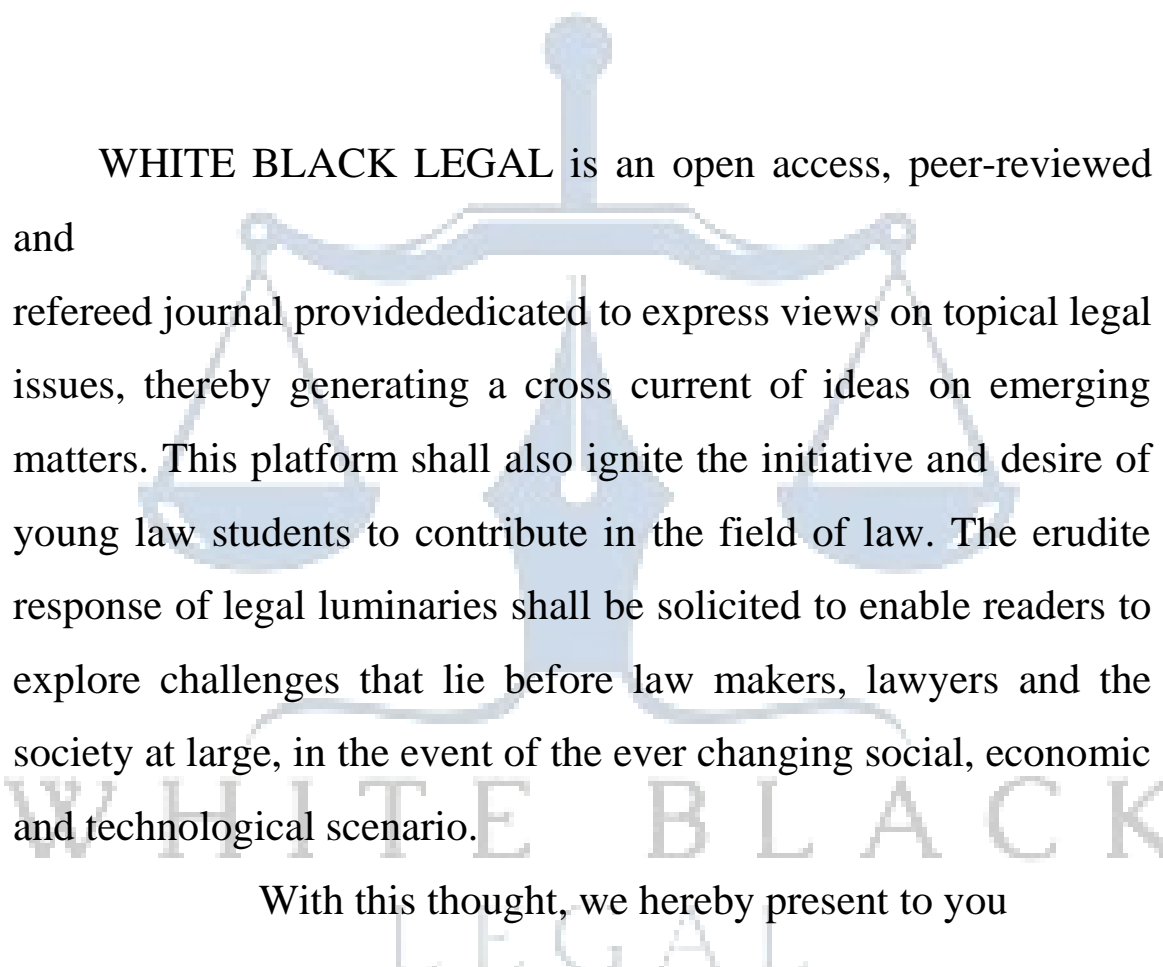


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With this thought, we hereby present to you



# **INDIA'S COPYRIGHT ACT IN THE CONTEXT OF SOCIAL MEDIA: BALANCING INFRINGEMENT ENFORCEMENT AND USER RIGHTS.**

AUTHORED BY - SAMYUKTHA.A & DARSHAN KUMAR.P

## **ABSTRACT:**

This paper aims to explore the context of social media in regard to India Copyright Act, looking at how the enforcement of copyright infringement is viewed as conflicting with user rights. Given the key role social media plays as a central hub for user-generated content, digital copyright infringement issues have been intensified in these platforms. Indian Copyright Act, though detailed, is silent on special provisions that specifically address certain dynamics relevant for platforms like social media; for example, notice-and-takedown system largely in use in jurisdictions like the United States of America. This paper discusses the above gaps in India's legal framework and their implications for social media platforms, copyright holders, and users. Copyright law needs to be put into practice in a manner that does not strangle the creative and expressive rights of users-this is what the article calls for, in a balanced approach. In my paper, I proceed to discuss and analyse extant law provisions, case laws, and international best practices, from which some proposed reforms will be carried out with the view to striking a necessary balance between copyright protection and the preservation of user rights in the digital space. It should aim at an environment and a legal system whereby intellectual property rights are encouraged and creative freedom for users.

## **INTRODUCTION:**

Digitalization, in the past few years, has changed the way a social media site develops, shares, and consumes content worldwide. However, with digitization comes tremendous issues concerning copyright infringement and the rights of users within the same medium. For instance, with social media being the hub of Facebook, YouTube, Instagram, and TikTok, the disputes leading to copyright infringement are quite common. How to balance these infringements with the basic rights of a user, such as freedom of expression and creativity, is also a challenge. The Indian Copyright Act of 1957, amended in 2012, serves as the legal framework for protecting intellectual property rights concerning digital content. However, the

provision of the law, in respect to copyright infringement enforcement is not well-set and less strong with respect to social media compared to some other jurisdictions such as the United States with the DMCA. In India, no notice-and-takedown procedure is explicitly defined under the Copyright Act. This makes it difficult to be able to respond consistently against online copyright violations. Therefore, often, these social media sites fail to practice the Indian Copyright Law, simply because there is no formal process for users to get redressed in case of any alleged infringement. This paper analyses India's Copyright Act as a means of dealing with social media in its new, digital landscape with a balance between copyright protection enforcement and protection of rights of a user. It'll discuss how the present structure of India deals with issues related to automated takedown of content, fair use, and rights of users in social media and whether reforms should be brought about to adapt to the fast-changing digital environment. This research paper examines the strengths and weaknesses of the current copyright enforcement system in India and foresees its contribution to building a better understanding of how copyright law might evolve to foster both creativity and protection in the digital age.

### **BACKGROUND:**

Social media has dramatically altered the production, sharing, and consumption of content in India. Today, Facebook, Instagram, Twitter, and YouTube form the central platform for online interaction, allowing users to upload, share, and remix a vast library of copyrighted material: music, videos, images, among others. The changes that social media has brought about are, however, quite problematic for copyright law enforcement. India has practiced the Copyright Act, 1957, which safeguards literary, artistic, and musical works from copyright-infringing persons and then owners who have a digital mode of creation. This Act deals with traditional types of copyright infringement but is now in a dilemma about how to carry this on in social media, Intermediaries play a role in social media platforms. Under India's intermediary liability provisions, which fall under **Section 79 of the Information Technology Act, 2000**, intermediaries are not liable for material uploaded by users unless notified about copyrights. This makes them operate in a sensitive balance between copyright enforcement and the rights of users to free speech and fair use, then there is the matter of fair use, which is quite a vital component of copyright law. According to this principle, a large number of copyrighted works are allowed to be used without permission for commentary, criticism, and also parody purposes. Although Indian courts have recognized fair use through judicial interpretation, it finds lesser



clarity in India, relatively compared to other jurisdictions; that creates confusion on just how far or to what extent the users can interact with copyrighted material without crossing the law. The paper concerns the conflict of copyright infringement enforcement and protection of rights of the users in India's social media environment. It investigates the role of social media sites, the law of India's Copyright Act in the new era of digital communication, and the way current legal provisions affect both producers and consumers. It will then look into the possible necessity of reforms to attain a fairer balance between copyright protection and user freedoms in this new digital age.

### **LITERATURE REVIEW:**

India's Copyright Act provides legal protection to the creators of original works, including literary, dramatic, musical, artistic works, and cinematographic films, ensuring their exclusive rights over their creations. Amendments to the Act, notably in 2012, introduced provisions to address emerging digital challenges. Sections like 51A (infringement of copyright on the internet), and Section 79 (Safe Harbour Provision) of the Information Technology Act (2000) impact how social media platforms handle copyright infringement claims.<sup>1</sup>(**S.Prakash 2017**)

The rapid growth of social media has created an environment where content is shared instantly and globally, raising significant challenges in copyright enforcement. Platforms like Facebook, Instagram, and YouTube have become hubs for user-generated content, making it difficult to monitor potential infringements effectively. The primary challenge is the sheer volume of content uploaded daily, which often leads to copyright violations, such as the unauthorized use of music, video clips, or images.<sup>2</sup> (**M. Sharma2019**).India's Safe Harbour Provision, under Section 79 of the Information Technology Act, 2000, protects intermediaries like social media platforms from liability for user-generated content, provided they act in good faith and follow due diligence. This provision, however, has been critiqued for not effectively addressing the balance between copyright holders and user rights. Social media platforms are not obliged to actively monitor content but must remove infringing content when notified by the copyright owner<sup>3</sup>(**B. Jain2020**). Copyright enforcement on social media often raises concerns about

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<sup>1</sup> S. Prakash, "Copyright Law and its Implications on Social Media in India," Journal of Intellectual Property Rights, 2017.

<sup>2</sup> M. Sharma, "Copyright and Social Media in India: Challenges and Implications," Indian Journal of Cyber Law, 2019.

<sup>3</sup> B. Jain, "Safe Harbour or Safe Haven? The Role of Intermediary Liability in Copyright Enforcement on Social Media," Journal of Internet Law, 2020.

ensorship and the restriction of freedom of expression. Many users argue that the implementation of copyright policies, especially automated systems like Content ID on YouTube, may result in over-blocking content, which is not necessarily infringing. These issues highlight the ongoing tension between enforcing copyright and respecting the rights of users to share and create content.<sup>4</sup>(**S. Raghavan2021**). Indian courts have begun to take more proactive roles in addressing copyright violations on social media. The 2016 Dastak Communications v. Google India case is one such example, where the Delhi High Court addressed the role of intermediaries in copyright infringement cases. The Court ruled that platforms could be held liable if they fail to act on takedown notices. This case set a precedent for holding social media platforms accountable while balancing the need for user privacy and rights<sup>5</sup> (**R. K. Soni2021**). The introduction of AI-powered tools for copyright protection, such as Content ID on YouTube, has provided an automated means for copyright holders to identify and remove infringing content. These tools, however, have raised concerns about the accuracy of automated takedown processes and the potential for false positives, which may infringe on the rights of users who have not violated copyright.<sup>6</sup> (**K. Roy 2022**). Comparative studies of copyright enforcement mechanisms in social media platforms in other jurisdictions, such as the European Union and the United States, offer valuable insights into India's approach. The EU's Directive on Copyright in the Digital Single Market and the US's Digital Millennium Copyright Act have implemented stricter measures for protecting copyright holders, which could serve as models for Indian reforms.<sup>7</sup>(**P.S.Thomas 2020**).

### **RESEARCH PROBLEM:**

"How can India's Copyright Act be revised or reinterpreted to address the unique challenges of copyright infringement on social media, ensuring a balanced approach that protects both the rights of copyright holders and the rights of users to freedom of expression and fair use?"

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<sup>4</sup>S. Raghavan, "Balancing Copyright Enforcement and Free Speech in the Age of Social Media," Indian Constitutional Law Review, 2021.

<sup>5</sup> R. K. Soni, "Social Media and Copyright Infringement: A Study of Indian Legal Framework," Asian Journal of Comparative Law, 2021.

<sup>6</sup> K. Roy, "AI in Copyright Enforcement on Social Media: A Blessing or a Curse?" International Journal of Law and Technology, 2022.

<sup>7</sup> P. S. Thomas, "Global Perspectives on Social Media and Copyright Enforcement: What Can India Learn?" International Review of Intellectual Property and Competition Law, 2020.

## **RESEARCH OBJECTIVE:**

1. To Analyze the Adequacy of India's Copyright Act in Addressing Social Media-Specific Challenges.
2. To Explore the Balance Between Copyright Enforcement and User Rights on Social Media.
3. To Evaluate the Role and Responsibilities of Social Media Platforms in Copyright Enforcement.
4. To Identify Effective Practices from Global Copyright Frameworks and Adapt for the Indian Context.
5. To Propose Recommendations for a Balanced Copyright Framework on Social Media in India.

## **DISCUSSION AND FINDING:**

The existing Indian Copyright Act is very strong for traditional media, while there are no specific laws for digital and social media. There is no apparent notice-and-takedown system, which makes it seem ambiguous to users and rights holders, thus making them inconsistent in enforcement. Unlike the US DMCA, India's copyright enforcement does not establish a notice-and-takedown structure. Therefore, social networking companies are less sure of what to do about removing copyrights or how to respond to violations. Social media sites rely on user-generated content, which is frequently remixed, or a parody commenting on a source, all of which are forms of expression that can qualify as fair use. But in the law around Indian copyright, the legal distinction is not clearly guided, leaving users vulnerable to takedown notices or bans for material that otherwise would be lawful. Automated enforcement tools, such as YouTube's Content ID, often fail to take into account fair use and over block or remove content that may not infringe copyright at all. This lack of alignment suggests the need for clearer fair-use policies as specific to the landscape of social media-to prevent unwarranted censorship. Section 79 of the Information Technology Act protects intermediaries as long as they follow due diligence and respond in good faith to infringement notices.<sup>8</sup> But there is often a lack of proactive monitoring, which can usually define the limitations of platforms' accountability towards copyright holders and further deter their efforts. Precedents such as *Dastak Communications v. Google India* make a decision that platforms are liable for failure to act on takedown notices. Still, such lacks comprehensive intermediaries guidelines for

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<sup>8</sup> Section 79 of INFORMATION TECHNOLOGY ACT,2000

enforcement; thus, it is indeed more arbitrary to both users and rights holders. The AI-based tools have proven useful at identifying infringing content but place substantial limitations on determining copyright violations of non-infringing uses, such as commentary or parody. Such false positives from these automated systems may lead to undue suppression of lawful user content and inhibit the exercise of freedom of expression and creativity. The problems regarding the issue of accountability and the needs of protection of the user in copyright enforcement processes arise due to the opaque nature and lack of redress mechanisms for the user who is adversely affected by these automated systems. International approaches, as illustrated in the directive regarding copyright in the digital single market of the EU and the U.S. DMCA<sup>9</sup>, provide structurally balanced frameworks between copyright protection and user rights. Such models hint at how India can institute a formal notice-and-takedown procedure, clearer guidelines for fair use on social media, and more robust accountability of intermediaries. Some of the very important lessons learned from other international practices are the cooperation between the platforms and the copyright holders to make it difficult for copyrights to be violated but, at the same time, they must protect the freedom of the users. India can adapt elements of those frameworks so that it gives clearer guidance and improves enforcement of copyrights without over restricting user expression.

### **CASE LAWS:**

Shreya Singhal v. Union of India (2015)

Facts:

Although not directly a copyright case, this landmark judgment relates to the broader issue of intermediary liability. The petition challenged Section 66A of the IT Act, which restricted freedom of expression online. The case questioned the liability of intermediaries in restricting user content.

Judgment:

The Supreme Court struck down Section 66A, holding it unconstitutional for being vague and overly broad, restricting the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution. Importantly, the Court clarified that intermediaries could not be compelled to remove content without a court order or governmental direction.

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<sup>9</sup> DMCA - The Digital Millennium Copyright Act (DMCA) 1988



T-Series v. YouTube (2008)

Facts:

T-Series (Super Cassettes Industries) filed a suit against YouTube for hosting infringing copies of its copyrighted songs and music videos. YouTube argued that as an intermediary, it was not responsible for user-uploaded content and invoked Safe Harbour protections under Section 79 of the IT Act.

Outcome:

Although the case was eventually settled out of court, it raised important discussions on the role of intermediaries and the liability they hold for user-uploaded content. The settlement led to YouTube implementing better copyright management tools, such as Content ID, which helps copyright owners identify and claim their content on the platform.

### **RECOMMENDATION:**

India should add a formal notice-and-takedown procedure to the Copyright Act, similar to what has occurred in the United States with the DMCA. Copyright holders would be allowed an opportunity to serve notice of infringement on social media platforms. The platforms would have clear guidelines as to the amount of time that the content would need to be removed. India lacks a clear, structured notice-and-takedown process that forces diversified practices in social media. It would provide the needed legal clarity, quick resolution of copyright infringement matters, and regularize the liability framework on the platforms. India should expand its fair use provisions under Section 52 of the Copyright Act with regard to material usage on social media. The law must, then, explicate myriad transformative uses like comment, parody, criticism, and educative purposes prevalent in the digital world. Indian law's vague fair use provisions are open to judicial interpretation, thus leaving unclear what actually constitutes lawful use. Greater clarity in definition and guidelines are better helped by the law to support users' freedom to engage in expression and creativity while still showing respect to copyright protection. Section 79 of the Information Technology Act should be amended so intermediaries, or social media companies, will take affirmative actions such as more effective content moderation tools and more transparent reporting mechanisms in addition to responding to takedown notices. Efforts must also be made to have efficient appeals mechanisms for victims of wrongful removal of their contents on the platforms. Section 79 would protect intermediaries by providing them with safe harbors, but the law does not encourage the

platform to monitor and control infringing content effectively. Strengthening the intermediary's responsibilities would strengthen fair protections for users-to avoid overly restricting user rights in copyright enforcement. Social media companies must be made to install the clear removal mechanisms for contents and available avenues for recourse in case of wrongful deletions. Proper redressal mechanism would ensure that user rights are treated seriously, delivered on time, and protected. Automated content identification systems, such as YouTube's Content ID, often remove user-generated content due to false positives. The availability of transparent appeal systems ensures that rights related to freedom of expression are exercised while legitimate concerns regarding copyright are dealt with. Indian copyright law should encourage the collaboration of the social media platforms with the copyright holders in order that the latter devise balanced systems for the enforcement of copyrights while protecting the rights of the copyright holders and the freedom of expression of users. This might also involve formulating harmonized guidelines on best practices concerning the management of user-generated content, which at all times would remain copyright compliant. There is a conflict of interest between rights holders and platforms: the former want stronger protections for their work, while the latter are concerned about user freedoms. Collaboration may translate into more effective copyright management tools and result in a reduction in user burdens. India needs to take inspiration from other international best practices, such as the European Union's Directive on Copyright in the Digital Single Market and that of U.S. DMCA, and adapt them to the Indian situation to strengthen the protections for users' rights to freedom of expression while ensuring copyright holders have a stake in that expression. International norms are quite insightful for balancing the copyright protection rights with users' rights. Its adaptation into India's legal system can give further strength to the enforcement of copyright as well as create a fair and transparent environment of law for both copyright holders and the user. The Indian government and social media companies should have awareness drives to educate users on copyright law, fair use, and the consequences that await if they commit infringement. Similarly, copyright owners should be educated on their rights and process for reporting digital infringements. Many of the users are not educated on copyrights and how they apply to content that users upload or distribute. Educating the user helps them avoid unintentional infringement and empowers them to utilize their rights responsibly. Similarly, copyright holders would need to gain a much better understanding about how to manage their digital rights more effectively.

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