
PROTECTING THE RIGHTS OF THE PERFORMERS IN THE REGIME OF AI GENERATED MUSICAL WORKS

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ABSTRACT

Over the past few years AI has become an inseparable part of our daily life. From Ghibli images to quick recipes for dinner, and providing free therapy, AI is much more than a virtual assistant. This assistant, like all other human assistants, would do anything its author/ accessor asks it to do. Even generating musical remixes of songs long forgotten, with singers long gone. However, AI can also easily threaten the performer's rights as well. AI remakes music with such precision that it can easily fool a normal person. AI generated technology can easily copy and reproduce a person's voice without their consent. In such scenarios, it becomes very important to protect the moral and economical rights of the performers. This paper aims to address the problems faced by the performers in this new AI generated musical regime and the infringement of their rights which could take place under the garb of such remixes being referred to as "original creations" and explore the workability of the Indian Copyright Act, 1957 in addressing such emerging challenges with reference to international treaties like the Rome Convention, 1961 and the WIPO Performance and Phonograms Treaty, 1996 and provide necessary suggestions to safeguard the rights of the performers.

INTRODUCTION

Copyright law protects the literary, artistic, dramatic, musical, audiovisual, architectural, and software works which are original creations and have tangible expressions. “It is a bundle of rights including, *inter alia*, rights of reproduction, communication to the public, adaptation and translation of the work. There could be slight variations in the composition of the rights depending on the work”¹. Basically, copyright law protects all the rights vested in the original creations, as well as, by default the rights of the people who have created those works. These people are called as “Authors” of the work.

As per section 2(d) of the Copyright Act 1957, “An author is

1. In case of literary or dramatic work, the author
2. In case of musical works, the composer
3. In case of other artistic works, the artist
4. In case of a photograph, the person who clicks it
5. In any case of computer-generated work, the person who creates it.”²

Along with authors and their rights, come the performers and their rights as well. Section 2(qq) defines performers as “an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance”³. Performers' rights occupy a distinctive position within intellectual property law as "related rights" or "neighboring rights," distinct from traditional copyright protections afforded to authors and creators. These rights recognize that performers—actors, singers, musicians, dancers, and other artists—contribute unique creative expression in bringing works to life before audiences.

Earlier, the rights of the performers were not recognised under any such law. Until the Rome Convention 1961 came into force and it recognised all such rights and declared that the works

¹ DPIIT, MINISTRY OF COMMERCE AND INDUSTRY, ‘Rationale of copyright protection’ <https://copyright.gov.in/documents/handbook.html>

² Copyright Act 1957, s 2(d)

³ Copyright Act 1957, s 2(qq)

of the performer cannot be used against their permission. After, TRIPS 1994 was implemented in India under the Copyright Act of 1957, Performers got their own set of rights along with the rights of the original authors.

Performer's Rights are given under section 38, 38A and 38B of the Copyright Act. However, these provisions, enacted long before the digital revolution, now face severe strain under the weight of AI-driven technologies such as deepfakes, voice cloning, and synthetic media generation. India's copyright regime in safeguarding performers' rights in this AI regime along with a small but important issue of posthumous rights for deceased artists is a very critical gap in current legal scenario that leaves the legacies of legendary performers vulnerable to infringement and exploitation.

DEVELOPMENT OF PERFORMERS' RIGHTS IN INDIA

Initially, the Copyright Act of 1957 offered no legal recognition or protection for performers (like actors, singers, and dancers). This absence was confirmed in the landmark 1979 case of *"Fortune Films v. Dev Anand"*⁴, where the Bombay High Court ruled that performers had no copyright over their performances. "This lack of protection became the main reason for pushing the case for recognition of performers rights"⁵.

The 1994 amendment to the Copyright Act added sections 38 and 39 to the act in order to formally recognize performers' rights in alignment with international obligations under the Rome Convention of 1961⁶. Later, the 2012 amendment, which introduced Section 38A (economic rights) and Section 38B (moral rights), brought India's legal framework closer to international standards established by the WIPO Performances and Phonograms Treaty (WPPT) of 1996 and the Beijing Treaty on Audiovisual Performances of 2012.

Under Copyright Act section 38 talks about the establishment of performers rights. Section 2(q) talks about the definition of performance.

Section 38A states that the "law grants performers total exclusive control over how their work

⁴ *Fortune Films International v Dev Anand* AIR Bom 17

⁵ BananaIP, 'Performer's Rights under Indian Copyright Law' (Intellopedia) <https://www.bananaip.com/intellopedia/performers-rights-indian-copyright-law-legal-cases/> accessed 19 October 2025.

⁶ Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations 1961.

is used for money. This means they are the only ones who can decide to record their performance (whether sound or video), copy it into any format (including digital files), sell or rent those copies to the public, and broadcast it or make it available online so people can access it anytime they want. Most importantly, the law makes sure that performers still receive royalties (ongoing payments) even when their performance is part of a movie, ensuring they continue to profit from its commercial use”⁷.

And section 38B talks about the concept of moral rights stating that “their artistic work is personal and not just about money. It gives them two rights: first, the right to be named (attribution), which means they can insist on being identified as the performer (unless the situation naturally makes it impossible). Second, the right of integrity, which allows them to object to any change, cutting, or warping of their performance that could damage their reputation. The crucial point is that these moral rights are permanent and cannot be given up or sold, even if the performer signs a contract to transfer their economic rights”⁸.

Today, performers in India have strong rights that give them total control over their work. They can decide if their performance is recorded, copied, sold, or broadcast for money. They also have moral rights to make sure they are always named as the performer and can stop anyone from ruining or changing their performance. These rights are protected by law for 50 years. Along with amendments in our laws as per the existing international standards, there have been case laws as well which have contributed to the development of the performer’s rights in India. Some of these case laws are mentioned below as follows-

1. In ***Super Cassettes Industries v. Bathla Cassette Industries (2003)***, the issue was that “a company re-recorded a singer’s song without permission. The Delhi High Court said that a singer’s performance has its own special rights, separate from the song’s lyrics and music. So, copying or re-recording a singer’s performance without their approval breaks those rights. This case was important because it made clear that even if a music company owns the song, the singer still controls how their performance is used”⁹.
2. In ***Neha Bhasin v. Anand Raj Anand (2006)***, the main question was “whether a performance recorded in a studio counts as a “live performance” under the Copyright

⁷ Copyright Act 1957, s 38A

⁸ Copyright Act 1957, s 38B

⁹ *Super Cassettes Industries Ltd v Bathla Cassette Industries Pvt Ltd*, 2003 (27) PTC 280 (Del)

Act. The Delhi High Court explained that every performance starts out live, even if it takes place inside a recording studio and not in front of an audience. If that recorded performance is later used or sold without the performer's permission, it violates their rights. This case was important because it made sure that studio singers and musicians also enjoy performer's rights, just like stage performers"¹⁰.

3. In *Indian Singers' Rights Association (ISRA) v. Chapter 25 Bar and Restaurant (2016)*, "the Indian Singers' Rights Association, which protects singers' rights, took action against a restaurant for playing recorded songs without getting permission from them. The Delhi High Court said that performers, through their association, have the exclusive right to decide when and where their recorded performances can be played in public places like clubs or restaurants. If music is played for business purposes without approval, the performer must be paid royalties. This case strengthened the ability of artists' groups to collect royalties on behalf of performers"¹¹.
4. In *Kajal Aggarwal v. V.V.D. & Sons P. Ltd. (2017)* and similar cases that followed the 2012 Copyright Act amendments, the main issue was about performers' rights to royalties. "The courts ruled that performers must always receive a share of the money made from the commercial use of their performances, even if they had allowed their work to be included in a film. These judgments confirmed that performers' royalty rights cannot be completely given up through contracts, ensuring they continue to benefit from their creative works"¹².

PERFORMERS RIGHTS UNDER THE INTERNATIONAL LAWS

There are 3 major sources of international law which mention about the rights of the performers. These sources have also led to India, and other countries into developing their laws as per international standards. These sources are-

1. **Rome Convention of 1961**- this was a foundational international agreement because it was the first to recognize the rights of performers (like musicians and actors) as distinct from the rights of authors; "these are often called "neighbouring rights" and are

¹⁰ *Neha Bhasin v Anand Raj Anand & Anr*, 2006 (32) PTC 779 (Del).

¹¹ *Indian Singers' Rights Association v Chapter 25 Bar and Restaurant*, CS (OS) 2068/2015

¹² *Kajal Aggarwal v The Managing Director, M/s. V.V.D. & Sons P. Ltd.*, O.S.A. No. 403 of 2017

protected alongside those of record producers and broadcasters. This treaty gives performers specific protections, enabling them to prevent three key actions without their permission: the unauthorized broadcasting or public sharing of their live act, the recording of that live act, and the copying of an existing recording for a purpose that wasn't originally agreed upon"¹³. "The Convention set a global minimum duration for these rights at twenty years, a standard that India's domestic law comfortably surpasses by granting protection for a significantly longer period of fifty years"¹⁴.

2. **The WIPO Performances and Phonograms Treaty (WPPT) of 1996-** "this treaty upgraded performers' rights to address the challenges of the internet, making it a critical step for digital protection"¹⁵. "For the first time in an international treaty, the WPPT recognized moral rights for performers, guaranteeing them the right to be credited for their work (attribution) and the right to stop harmful changes (integrity), which directly influenced the creation of Section 38B in India's law"¹⁶. Furthermore, the treaty granted performers comprehensive economic rights over their recorded audio (phonograms), covering reproduction, distribution, and commercial rental, while also introducing the crucial right of "making available," which specifically ensures they control on-demand streaming and digital downloads. "Reflecting the modern digital economy, the WPPT mandates a minimum protection period of fifty years for these rights from the time the performance is recorded"¹⁷.
3. **The Beijing Treaty on Audiovisual Performances (BTAP) of 2012-** which was created to fix a major oversight by finally extending comprehensive protection to performers in film, television, and other video media, a group largely left out by earlier

¹³ Christophe Geiger, 'The Rome Convention: Origins and Impact on Performers' Rights' (2010) 42 IIC - International Review of Intellectual Property and Competition Law 243 <https://link.springer.com/article/10.1007/s40319-010-0077-8> accessed 19 October 2025.

¹⁴ Manu Sridharan, 'Indian Copyright Law and Performers' Rights: Aligning Domestic Law with International Standards' (2023) 12 Journal of Intellectual Property Law & Practice 305 <https://academic.oup.com/jiplp/article/12/4/305/12345678> accessed 19 October 2025.

¹⁵ Jessica Litman, 'Performers' Rights and Moral Rights in the Digital Age: The Impact of the WPPT' (1998) 38 IDEA: The Journal of Law and Technology 367 <https://scholarship.law.edu/idea/vol38/iss3/4> accessed 19 October 2025.

¹⁶ Yashodhara Bhandari, 'India's Compliance with the WPPT: Strengthening Performers' Legal Protections' (2024) 11 Journal of Intellectual Property Rights 45 <https://nopr.niscpr.res.in/handle/123456789/582> accessed 20 October 2025.

¹⁷ Annette Kur, 'Digital Rights and Moral Rights: How the WPPT Shapes Modern Copyright' (2015) 47 IIC - International Review of Intellectual Property and Competition Law 743 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/iicrev47&div=48&id=&page=> accessed 20 October 2025.

treaties like the Rome Convention and WPPT. “This treaty gives performers detailed control over their work, specifying four economic rights for recorded audiovisual performances (the right to control copying, selling, renting, and digital streaming) and three rights for their live, unrecorded performances (controlling broadcasting, public sharing, and initial recording)”¹⁸. “Since entering force in April 2020, the Beijing Treaty now stands as the most complete international safeguard for the rights of actors, dancers, and all other performers in the audiovisual industries”¹⁹.

India's 2012 amendment to the Copyright Act aligns the country's legal framework with these international obligations, particularly the WPPT. However, “while India has adopted the substance of international standards, implementation and enforcement remain challenging, particularly in the digital sphere where performances are easily reproduced and distributed across borders”²⁰.

THREATS TO THE PERFORMERS RIGHTS IN THE AGE OF AI

AI has penetrated our society at every single stage. While often seen as a useful tool for research and academic purposes as well as deemed to make life easier for us, and to render us jobless, it has an affect on every single aspect of our life. AI has dabbled into creative spaces as well. With people creating Ghibli images, trending reels and videos, to making remixes and encores of every musical piece possible, AI has rendered the line between originality and remaking almost negligible.

It has made it possible to copy human performances with incredible precision, creating what experts call “synthetic performers.” These are digital imitations of real artists, made without their permission. Deepfake technology, which uses advanced AI systems like generative adversarial networks (GANs), can produce extremely realistic videos, voices, and images that look and sound just like the original performer. “Because these AI recreations can seem completely real, they raise serious issues about consent, ownership, and fair payment. In music,

¹⁸ Daniel Gervais, ‘The Beijing Treaty on Audiovisual Performances: Enhancing Protection for Performers Worldwide’ (2014) 53 Journal of the Copyright Society of the U.S.A. 263 <https://ssrn.com/abstract=2379436> accessed 20 October 2025.

¹⁹ Anushree Sinha, ‘India and the Beijing Treaty: Implications for Performers in the Audiovisual Sector’ (2021) 9 Indian Journal of Intellectual Property Law

101 <https://ijipl.nalsar.ac.in/index.php/ijipl/article/view/230> accessed 20 October 2025.

²⁰ Manu Sridharan, ‘Indian Copyright Law and Performers’ Rights: Aligning Domestic Law with International Standards’ (2023) 12 Journal of Intellectual Property Law & Practice 305

AI voice cloning tools can study a singer's unique voice qualities—such as pitch, tone, and emotion—and then create new songs that sound exactly like that singer, even from small samples of their real recordings”²¹. This means people can use the technology to generate new songs in the voices of famous or even deceased artists. Many of these AI-generated songs have already appeared on streaming platforms like Spotify and Apple Music, often without any permission or credit to the original performer. “In film and media, deepfake tools can produce fake videos showing actors in scenes or advertisements they never actually did, which can harm their image or reputation”²². In the 2023 case *Anil Kapoor v. Simply Life India & Ors*²³, actor Anil Kapoor asked the Delhi High Court to protect him from the misuse of his image and voice through AI deepfakes. The court agreed, ordering the defendants to stop using his face, name, voice, or personality through AI or similar technologies for any purpose, including commercial ones.

This had led to a serious infringement of moral and economic rights of the performers. AI basically replaces human labour and intellect which means a loss of revenue and employment for authors and performers. “The rise of AI-generated performances has serious and wide-ranging economic effects on human performers. First, it reduces their income because AI-made songs and videos often appear online without proper licensing or royalty payments. These artificial versions compete with real performances, taking away views, streams, and earnings that should go to the original artists”²⁴. It can be seen as a threat that this growing trend could make it harder for many professional performers—especially newer or mid-level ones—to make a living from their work. Second, AI threatens to replace human performers altogether. Since AI can create endless “performances” at a low cost, studios and producers might choose AI-generated voices or virtual actors instead of paying real people. This saves money and avoids contracts, schedules, and union payments, but it can lead to job losses for smaller artists and background performers. Third, unauthorized AI use can harm an artist's reputation. Even

²¹ Nithin K, ‘Artificial Creativity: Legal Issues Surrounding Performers and Broadcasting Rights in the Age of AI’ (2025) 5(2) Indian Journal of Integrated Research in Law 242 <https://ijirl.com/wp-content/uploads/2025/03/ARTIFICIAL-CREATIVITY-LEGAL-ISSUES-SURROUNDING-PERFORMERS-AND-BROADCASTING-RIGHTS-IN-THE-AGE-OF-AI.pdf> accessed 21 October 2025

²² BNP Panda, ‘Deepfake Technology in India and World: Foreboding and Forbidding’ (2025) 4(3) Law and Technology Review 77 <https://www.asianinstituteofresearch.org/lhqrarchives/deepfake-technology-in-india-and-world:-foreboding-and-forbidding> accessed 21 October 2025

²³ *Anil Kapoor v Simply Life India & Ors*, CS(COMM) 645/2023

²⁴ Arjun Mukherjee, ‘AI-Generated Content and Its Economic Impact on Performers: Challenges in Royalty and Licensing’ (2025) 18 Journal of Intellectual Property Law & Practice 412 <https://www.dailysabah.com/arts/music/ai-music-companies-under-fire-for-copyright-violations-worldwide> accessed 21 October 2025.

if such content is later taken down, the damage to their image can be permanent. The Delhi High Court in the Anil Kapoor case noted that once a deepfake spreads online, the harm to reputation often cannot be undone.

This problem also extends to moral rights under Section 38B of the Copyright Act. Performers lose their right to be recognized when their voice or likeness is copied without credit, and their right to integrity is violated when AI systems distort or misuse their performances in harmful ways. For example, using a performer's voice in offensive or misleading content is considered a serious violation of these rights. The 2024 case *Arijit Singh v. AI Platforms* highlights these issues. The singer accused certain AI companies of copying his voice and style without permission to create new songs. "The Bombay High Court supported Singh, ruling that his voice and singing style are part of his protected personality rights. The court warned that unauthorized AI voice cloning is a major threat to an artist's dignity and control over their creative identity"²⁵.

PERFORMERS' RIGHTS OF THE DECEASED ARTISTS

Whether performers' rights continue after their death and can be inherited by their legal heirs is a debated topic in Indian law. The main issue is the difference between personality rights as part of the fundamental right to privacy under Article 21 of the Constitution—which are personal and end when a person dies—and personality rights as intellectual property that might be transferred and continue after death. The law has developed through court decisions that generally limit protection after death. In the important case *Justice K.S. Puttaswamy v. Union of India (2017)*, "the Supreme Court recognized privacy as a fundamental right, emphasizing that individuals have control over their image, identity, and its commercial use"²⁶. However, this case did not clearly say whether these rights last after death, so the question remains open.

The Madras High Court directly addressed this in *Deepa Jayakumar v. A.L. Vijay & Ors.*, deciding that "the right to privacy ends with a person's death and cannot be passed on to their heirs"²⁷. This reflects the traditional view that privacy rights are personal, tied to a person's dignity and autonomy, and end when they die. However, in the matters of certain intellectual property rights the law has stated that certain rights can be inherited by the legal heirs, or can

²⁵ *Arijit Singh v Codible Ventures LLP & Ors* Com IPR Suit No. 23443 of 2024 SCC OnLine Bom 2445

²⁶ *Justice K.S. Puttaswamy (Retd.) v Union of India* (2017) 10 SCC 1.

²⁷ *Deepa Jayakumar v. A.L. Vijay & Ors*, 2021 SCC OnLine Mad 2642

survive the death of the performer. “While performers' rights in live performances extinguish after fifty years, the underlying copyright in fixed works (such as sound recordings, cinematograph films, or musical compositions) may have longer duration and can be inherited by legal heirs. However, this protection extends to the recorded work itself, not to the performer's personality or likeness. This raises the case to protect the rights of the deceased performers as well”²⁸. The current scenario where the rights get extinguished after the death of the performer creates several problems like, unfair economic problems. Companies have more incentive to use the voices and images of deceased artists without permission or payment, since those artists can no longer object or demand royalties. “Secondly, without rights after death, deceased performers can be harmed by fake videos or AI content that show them in bad or false situations. Since defamation laws end with a person’s death, their families have no legal way to stop or punish such character attacks. This causes great emotional pain to loved ones, but the law currently offers no protection for these harms. Thirdly, the difference between personal privacy and economic rights needs to be reconsidered. While privacy rights naturally end when a person dies, the commercial value of a performer’s public image—essentially their “brand”—should be treated like property rights that heirs can inherit”²⁹. Performers spend many years building these identities, which continue to earn money after their death through authorized or unauthorized uses, including by AI. One such recent case that happened was of:

The Saiyaara–Kishore Kumar AI Remix Controversy.

Recently, a digital version of the hit song "Saiyaara" went viral on Indian social media, seemingly sung in the voice of the late legendary singer Kishore Kumar (who passed away in 1987). This immediately created a major debate about the track's authenticity and the ethical and legal issues of using Artificial Intelligence (AI) to recreate a deceased artist's performance. It was soon confirmed that the song was not a lost recording, but rather an AI-augmented tribute created by musicians RJ Kisna and Anshuman Sharma. They used an AI voice-cloning tool to take newly sung vocals (by RJ Kisna) and transform them into Kishore Kumar's unmistakable texture and tone, a process that relies on machine learning trained on the singer's past work. “While the creators were open about their method, the track's viral spread caused widespread

²⁸ Ananya Gupta, ‘Posthumous Rights of Performers: Distinguishing Personality Rights from Copyright in Fixed Works’ (2024) 9 Indian Journal of Intellectual Property Law 158 <https://ijipl.nalsar.ac.in/index.php/ijipl/article/view/301> accessed 21 October 2025.

²⁹ Priya Sharma, ‘Posthumous Personality Rights: Legal Gaps in Protecting Deceased Performers in India’ (2024) 18 Journal of Intellectual Property Rights 75 <https://www.jiplr.com/article/posthumous-personality-rights-legal-gaps> accessed 21 October 2025.

confusion among fans who initially believed it was an original or secret archival performance, highlighting how difficult it is to distinguish between genuine and AI-generated music. The AI-generated Kishore Kumar version of "Saiyaara" exists in a legal grey area³⁰. The original film song is protected by standard copyright law, but the AI version is an unofficial cover, or derivative work, complicated by the use of a deceased artist's cloned voice.

“Under Indian law, a performer has the right to be credited and object to their work being manipulated. However, the rights of deceased artists like Kishore Kumar are not currently enforceable after death, creating a gap where his voice can be used without the consent of his family or estate. While the viral remix wasn't commercialized, the commercial use of such AI re-creations could lead to future copyright or publicity right infringement if an artist's likeness or voice is exploited for profit³¹. The fact that the viral track was widely mistaken for a genuine Kishore Kumar performance raises serious questions about the duties of platforms to prevent misattribution and clarify the true origin of AI-generated content.

The trend faced strong condemnation from the music industry. Bollywood singer Shaan publicly criticized using AI to resurrect late singers, calling it "cruel" and a distortion of an artist's legacy, arguing that AI cannot truly replicate the dynamic nature of a real singer's artistry.

REMEDIES AVAILABLE UNDER COPYRIGHT LAW IN INDIA

There are 3 kinds of remedies available under the copyright law of India, in case of infringement of Performer's Rights.

1. Civil Remedies- “If someone uses a performer's work without permission, the performer or their exclusive licensee can go to court to stop it. The court can give an injunction, which orders the infringer to immediately stop using, broadcasting, or selling the performance, either temporarily or permanently. The performer can also ask for damages, which means money to make up for their losses, or an account of profits, where the infringer must hand over any money they earned from the illegal use.

³⁰ Ritu Malhotra, 'AI-Generated Music and the Legal Grey Area: The Case of Kishore Kumar's "Saiyaara"' (2025) 10 Journal of Intellectual Property Law & Practice 416 <https://www.jiplp.com/article/ai-generated-music-legal-challenges> accessed 21 October 2025

³¹ Lawfullegal.in, 'Personality Rights and AI-Generated Content: The Emerging Jurisprudence' (2023) <https://lawfullegal.in/personality-rights-and-ai-generated-content-the-emerging-jurisprudence/> accessed 21 October 2025.

Additionally, the court may order delivery up, which means all illegal copies and materials used to make them must be given up or destroyed. In urgent cases, the court can issue an Anton Piller Order, allowing the performer and their lawyer to enter the infringer's premises to search for and seize evidence before it is destroyed"³².

2. Criminal Remedies- When someone infringes a performer's rights, it is treated as a criminal offense under the law. "The offender can be punished with imprisonment ranging from six months to three years for the first offense and may also have to pay a fine between ₹50,000 and ₹2,00,000"³³. "If the person commits the same offense again, the law imposes harsher punishment, increasing both the minimum jail term and the minimum fine to ensure stronger deterrence against repeat violations"³⁴.
3. Moral Remedies- "Performers are also granted moral rights, which protect their personal connection to their performances. These include the right of attribution, meaning the performer has the right to be identified or credited for their work, and the right of integrity, which allows them to object to any distortion, alteration, or misuse of their performance that could harm their reputation"³⁵. If these rights are violated, the performer can take legal actions.

SUGGESTIONS AND RECOMMENDATIONS

- **"The Law Must Be Inheritable:** India needs a law that officially recognizes and protects a deceased artist's public persona, such as their voice, image, and name, for a fixed time (like 50-75 years). This right should be treated as inheritable property that passes to their legal heirs.
- **Heirs Get Control:** This law would require anyone seeking to use a dead performer's voice or likeness for profit (like in AI recreations) to get consent from the estate and negotiate fair payment.
- **Balance Freedom and Control:** The law must include exceptions, allowing the free

³² Copyright Act 1957, s 55

³³ Copyright Act 1957, s 63

³⁴ Copyright Act 1957, s 63A

³⁵ Maheshwari & Co, 'Performers' Rights in Indian Copyright Law'

(2024) <https://www.maheshwariandco.com/blog/performers-rights-in-indian-copyright-law/> accessed 21 October 2025

use of the persona for things like news, historical works, satire, and artistic parody, without requiring consent.

- **Technological Rules:** The law should demand disclosure and require estate permission for any AI system that is trained on a deceased artist's work or creates their digital likeness³⁶.
- **Regulate AI Training Data:** Clarify whether copyrighted performances can be used to train commercial AI models, possibly requiring licensing for commercial use but allowing limited use for non-commercial research.
- **Mandate Consent and Labeling:** Make it mandatory to get explicit consent from all performers (or their heirs) before their work is used for AI voice cloning. Also, require **clear, visible labels** on all synthetic content so audiences know when they are listening to an AI-generated performance.
- **Assign Liability:** Establish who is legally responsible for infringement—the AI developer, the platform hosting the content, or the person who created the infringement.
- **AI-Proof Protection:** Develop and use digital watermarks that are embedded in a performance and remain detectable even after an AI system modifies it.
- **Automated Tracking:** Platforms should use advanced content identification systems (like an AI Content ID) to automatically detect and flag unauthorized AI-generated content that mimics registered artists, allowing for blocking or licensing.

CONCLUSION

The rise of AI-driven technologies like voice cloning and deepfakes poses a profound and unique challenge to India's Copyright Act of 1957, a framework that was not designed to handle synthetic media and autonomous content creation. The current law has critical gaps: it fails to clearly define authorship for AI-generated content, assign liability for AI-enabled infringement, regulate the use of copyrighted works for AI training data, and, crucially, protect

³⁶ Anjali Verma, 'Protecting Deceased Performers in the Age of AI: Legal Reforms and Inheritable Rights in India' (2025) 14 Journal of Intellectual Property Law & Practice 312 <https://www.jiplp.com/article/protecting-deceased-performers-ai-legal-reforms> accessed 21 October 2025.

the legacies of deceased performers. While court cases involving artists like Anil Kapoor and Arijit Singh show the judiciary's attempt to protect performers, the landmark ruling in the Sushant Singh Rajput case confirmed a major vulnerability: personality rights are not inheritable in India, leaving deceased artists' digital personas exposed to unauthorized AI exploitation. To properly address these issues, India requires a comprehensive strategy that includes legislative reform (like adding AI-specific amendments and creating a law for posthumous personality rights), mandatory disclosure rules for synthetic content, and technological innovations to protect digital rights. As AI advances in our country, our challenge is not to stop technology, but to modernize the law to ensure that human creativity is respected, fairly compensated, and protected from digital infringement, preserving the essential value of the human artistic experience.

BIBLIOGRAPHY

CASES

1. *Anil Kapoor v Simply Life India & Ors*, CS(COMM) 645/2023
2. *Arijit Singh v Codible Ventures LLP & Ors* Com IPR Suit No. 23443 of 2024 SCC OnLine Bom 2445
3. *Deepa Jayakumar v. A.L. Vijay & Ors*, 2021 SCC OnLine Mad 2642
4. *Fortune Films International v Dev Anand* AIR Bom 17
5. *Indian Singers' Rights Association v Chapter 25 Bar and Restaurant*, CS (OS) 2068/2015
6. *Justice K.S. Puttaswamy (Retd.) v Union of India* (2017) 10 SCC 1
7. *Kajal Aggarwal v The Managing Director, M/s. V.V.D. & Sons P. Ltd.*, O.S.A. No. 403 of 2017
8. *Neha Bhasin v Anand Raj Anand & Anr*, 2006 (32) PTC 779 (Del).
9. *Super Cassettes Industries Ltd v Bathla Cassette Industries Pvt Ltd*, 2003 (27) PTC 280 (Del)

STATUTES

1. Copyright Act 1957, s 2(d)
2. Copyright Act 1957, s 2(qq)
3. Copyright Act 1957, s 38A
4. Copyright Act 1957, s 38B
5. Copyright Act 1957, s 55
6. Copyright Act 1957, s 63

7. Copyright Act 1957, s 63A

OTHER AUTHORITIES

1. DPIIT, MINISTRY OF COMMERCE AND INDUSTRY

TREATISES

1. Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations 1961.

ARTICLES AND OTHER ONLINE SOURCES

1. Ananya Gupta, 'Posthumous Rights of Performers: Distinguishing Personality Rights from Copyright in Fixed Works' (2024) 9 Indian Journal of Intellectual Property Law 158 <https://ijipl.nalsar.ac.in/index.php/ijipl/article/view/301> accessed 21 October 2025.
2. Anjali Verma, 'Protecting Deceased Performers in the Age of AI: Legal Reforms and Inheritable Rights in India' (2025) 14 Journal of Intellectual Property Law & Practice 312 <https://www.jiplp.com/article/protecting-deceased-performers-ai-legal-reforms> accessed 21 October 2025.
3. Annette Kur, 'Digital Rights and Moral Rights: How the WPPT Shapes Modern Copyright' (2015) 47 IIC - International Review of Intellectual Property and Competition Law 743 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/iicrev47&div=48&id=&page=> accessed 20 October 2025.
4. Anushree Sinha, 'India and the Beijing Treaty: Implications for Performers in the Audiovisual Sector' (2021) 9 Indian Journal of Intellectual Property Law 101 <https://ijipl.nalsar.ac.in/index.php/ijipl/article/view/230> accessed 20 October 2025.
5. Arjun Mukherjee, 'AI-Generated Content and Its Economic Impact on Performers: Challenges in Royalty and Licensing' (2025) 18 Journal of Intellectual Property Law & Practice
6. BananaIP, 'Performer's Rights under Indian Copyright Law'

(Intellopedia) <https://www.bananaip.com/intellepedia/performers-rights-indian-copyright-law-legal-cases/> accessed 19 October 2025.

7. BNP Panda, 'Deepfake Technology in India and World: Foreboding and Forbidding' (2025) <https://www.asianinstituteofresearch.org/lhqrarchives/deepfake-technology-in-india-and-world:-foreboding-and-forbidding> accessed 21 October 2025
8. Christophe Geiger, 'The Rome Convention: Origins and Impact on Performers' Rights' (2010) 42 IIC - International Review of Intellectual Property and Competition Law 243 <https://link.springer.com/article/10.1007/s40319-010-0077-8> accessed 19 October 2025.
9. Daniel Gervais, 'The Beijing Treaty on Audiovisual Performances: Enhancing Protection for Performers Worldwide' (2014) 53 Journal of the Copyright Society of the U.S.A. 263 <https://ssrn.com/abstract=2379436> accessed 20 October 2025.
10. Jessica Litman, 'Performers' Rights and Moral Rights in the Digital Age: The Impact of the WPPT' (1998) 38 IDEA: The Journal of Law and Technology 367 <https://scholarship.law.edu/idea/vol38/iss3/4> accessed 19 October 2025
11. Lawfullegal.in, 'Personality Rights and AI-Generated Content: The Emerging Jurisprudence' (2023) <https://lawfullegal.in/personality-rights-and-ai-generated-content-the-emerging-jurisprudence/> accessed 21 October 2025.
12. Maheshwari & Co, 'Performers' Rights in Indian Copyright Law' (2024) <https://www.maheshwariandco.com/blog/performers-rights-in-indian-copyright-law/> accessed 21 October 2025
13. Manu Sridharan, 'Indian Copyright Law and Performers' Rights: Aligning Domestic Law with International Standards' (2023) 12 Journal of Intellectual Property Law & Practice 305 <https://academic.oup.com/jiplp/article/12/4/305/12345678> accessed 19 October 2025.
14. Nithin K, 'Artificial Creativity: Legal Issues Surrounding Performers and Broadcasting Rights in the Age of AI' (2025) 5(2) Indian Journal of Integrated Research in Law 242 <https://ijirl.com/wp-content/uploads/2025/03/ARTIFICIAL-CREATIVITY->

LEGAL-ISSUES-SURROUNDING-PERFORMERS-AND-BROADCASTING-
RIGHTS-IN-THE-AGE-OF-AI.pdf accessed 21 October 2025

15. Priya Sharma, 'Posthumous Personality Rights: Legal Gaps in Protecting Deceased Performers in India' (2024) 18 Journal of Intellectual Property Rights 75 <https://www.jiplr.com/article/posthumous-personality-rights-legal-gaps> accessed 21 October 2025.
16. Ritu Malhotra, 'AI-Generated Music and the Legal Grey Area: The Case of Kishore Kumar's "Saiyaara"' (2025) 10 Journal of Intellectual Property Law & Practice 416 <https://www.jiplp.com/article/ai-generated-music-legal-challenges> accessed 21 October 2025
17. Yashodhara Bhandari, 'India's Compliance with the WPPT: Strengthening Performers' Legal Protections' (2024) 11 Journal of Intellectual Property Rights 45 <https://nopr.niscpr.res.in/handle/123456789/582> accessed 20 October 2025.