



Copyright Enforcement in the Social Media Ecosystem: A Comparative Legal Study of the US and UK Fair Dealing or Unfair System? Copyright, Content ID, and the Chilling Effect on Indian Digital Creators

Mohammed Abdul Fasi[†]

Research Operations Department, Innovation & Research, King Faisal Specialist Hospital & Research Centre,
Makkah Al Mukarramah Br Rd, Al Mathar Ash Shamali, Riyadh 12713, Saudi Arabia

Received: 8th July 2025; revised: 8th September 2025

The proliferation of digital content platforms has intensified copyright conflicts, acutely affecting Indian YouTubers. This paper investigates the misalignment between India's "fair dealing" (Copyright Act, Section 52) and YouTube's automated Content ID. Through doctrinal and comparative legal analysis juxtaposing India's framework with US "fair use" and the EU Copyright Directive, this study examines how automated enforcement interacts with statutory exceptions. We argue the current ecosystem, exemplified by disputes such as the recent allegations against Asian News International (ANI) for issuing copyright strikes on short news clips used in commentary videos, facilitates copyright claim misuse, disproportionately affecting independent creators, and chilling critical commentary. Automated enforcement prioritizes claims over nuanced legal exceptions, creating a power imbalance. The paper proposes dual reform: platform governance changes (enhanced fair dealing assessment) and legislative clarification by India to adapt fair dealing for the digital age, potentially via a new oversight body.

Keywords: Copyright Law, Fair Dealing, Content ID, Indian YouTubers, Digital Platforms, Intellectual Property, Indian Copyright Act

Indian YouTubers in the Global Digital Sphere and the Challenge of Copyright Overreach

Indian YouTubers have become a formidable presence in the global digital content arena, engaging in a diverse array of genres that contribute to information dissemination, cultural exchange, public discourse, and entertainment on a worldwide scale. Nevertheless, this rapidly expanding ecosystem encounters a significant challenge: the repercussions of purportedly biased copyright strikes and aggressive enforcement strategies employed by certain copyright holders. Such actions not only jeopardize the livelihoods of individual creators but also threaten to impede the free flow of information and creative expression that platforms like YouTube are designed to promote. A notable instance of this issue involves Asian News International (ANI), a prominent Indian news agency. Numerous Indian YouTubers who produce content on current affairs have alleged that ANI has demanded exorbitant fees and issued copyright strikes for the use of even brief video clips from its news feeds.¹

The controversy gained prominence in May 2025, when The Reporters' Collective disclosed that ANI had systematically issued mass copyright strikes and demanded fees ranging from ₹15–25 lakh for their withdrawal.² Popular YouTuber Mohak Mangal, with over four million subscribers, publicly revealed that ANI struck two of his videos over clips lasting only 9–11 seconds and demanded between ₹45–50 lakh and GST to rescind the strikes.³ Around the same period, Rajat Pawar, another creator with 3.5 million subscribers, alleged that ANI asked for ₹18 lakh after issuing strikes on his content. Storyboard18 also confirms Pawar's claim that ANI demanded ₹18 lakh (or an annual licensing package), even as he offered to remove ANI clips and abstain from future use-threatening termination if he failed to comply.⁴ Other creators, speaking anonymously to MediaNama, reported receiving strikes for clips as short as 10–15 seconds, often accompanied by six-figure settlement demands.⁵ Multiple reports confirmed that fees demanded by ANI ranged from ₹15–25 lakh, even in cases involving still frames, a practice that Outlook aptly described as "unethical, but lawful."⁶ The controversy drew further attention in June 2025, when Prasar Bharati intervened by offering creators access

[†]Email: fasi6026@gmail.com

to its own archives free of copyright strikes, underscoring the chilling effect of ANI's enforcement tactics.⁷

This phenomenon of "copyright striking" extends beyond mere intellectual property protection. When applied aggressively, particularly in the realm of news and current affairs where timeliness and access to source material are paramount, it can morph into a tool for market control or the suppression of critical voices. The Indian Copyright Act, 1957, through its fair dealing provisions⁸, explicitly permits the use of copyrighted material for purposes such as reporting current events and criticism.⁹ If a copyright holder systematically issues copyright strikes for any use of its material by commentators or independent news analysts, irrespective of fair dealing considerations, it raises serious questions about the intent behind such enforcement. It may be perceived as a strategy to compel creators into expensive licensing agreements or to discourage unfavorable commentary. This has profound implications for freedom of speech and the diversity of news sources, particularly as independent creators often provide alternative perspectives to mainstream narratives. The inherent power imbalance between large, well-resourced news agencies and individual YouTubers is significantly exacerbated by the automated copyright enforcement systems deployed by platforms like YouTube.¹⁰ By analyzing the legal dimensions of India's fair dealing doctrine in comparison to international standards, and scrutinizing the operational impact of YouTube's enforcement mechanisms, this paper identifies critical points of failure and proposes a series of targeted reforms for both platforms and policymakers.

Dissecting India's Fair Dealing Doctrine (Section 52, Copyright Act, 1957)

India's Copyright Act, 1957, attempts to strike a balance between protecting the rights of copyright holders and ensuring public access to information and creative works. Central to this balance is the doctrine of "fair dealing," enshrined in Section 52 of the Act. This section outlines specific acts that do not constitute an infringement of copyright, provided they meet certain criteria.

Statutory Framework and Permitted Uses for News, Commentary, and Parody

Section 52(1)(a) of the Copyright Act, 1957, is the cornerstone of fair dealing in India. It stipulates that "a fair dealing with any work, not being a computer programme, for the purposes of (i) private or personal

use, including research; (ii) criticism or review, whether of that work or of any other work; (iii) the reporting of current events" shall not constitute an infringement of copyright.¹¹ This provision is fundamental for YouTubers who engage in news reporting, commentary, critical analysis, or parody, as it provides a legal basis for using excerpts of copyrighted material. The legislative intent behind these exceptions is to ensure that copyright protection does not unduly hinder learning, creativity, public discourse, or the free exchange of ideas, which are vital in a democratic society.¹² The term "fair" itself, though not explicitly defined in the Act, introduces a crucial element of subjectivity and implies that even within these listed purposes, the use must be limited, proportionate, and reasonable.⁸ It is not a blanket permission but a conditional exemption.

A significant consideration in the interpretation of fair dealing is the nature of the use, particularly concerning commercial intent. While the primary purposes listed – research, criticism, review, reporting – often have a public interest or non-commercial dimension, the reality of online content creation, especially on platforms like YouTube where monetization is common, complicates this aspect. Some judicial interpretations and legal analyses suggest that if the usage leads to direct financial benefits from the copyrighted material itself or harms the copyright holder's commercial interests, it may not be protected under fair dealing.¹³ This poses a challenge for YouTubers who monetize their channels, even if the specific use of a copyrighted clip is for a permitted purpose like criticism or news reporting. The line between incidental monetization of a larger original work and direct commercial exploitation of the clip itself is often blurred and requires careful assessment.

Judicial Precedents and the Interpretation of "Fairness"

Indian courts have played a crucial role in shaping the understanding of "fair dealing." Since the statute does not define "fair," its interpretation has evolved through case law, with courts generally considering several factors to determine whether a particular use of copyrighted material is permissible. These factors, often drawn from common law principles and influenced by approaches in other jurisdictions like the UK and US, include:

- (i) **The Purpose and Character of the Use:** Courts examine whether the use aligns with the

statutorily permitted purposes (e.g., criticism, review, news reporting) and whether it is genuinely for that purpose or a pretext for unauthorized exploitation.¹² The transformative nature of the use, i.e., whether the new work adds value or changes the original, can also be a consideration, although this is less explicitly developed in Indian law compared to US fair use.¹⁴

- (ii) **The Nature of the Copyrighted Work:** The type of work used (e.g., factual, creative, published, unpublished) can influence the assessment of fairness. For instance, using factual works for research or news reporting might be viewed more leniently than extensive use of highly creative works.¹⁵
- (iii) **The Amount and Substantiality of the Portion Used:** This is a critical factor. Courts assess both the quantitative amount and qualitative significance of the portion taken in relation to the copyrighted work as a whole.¹² Even the use of a small portion may be deemed unfair if it constitutes the "heart" or the most vital part of the original work. There are no set guidelines defining the number of words or passages that can be used without permission; it is a matter of judicial discretion based on the facts of each case.¹⁵
- (iv) **The Effect of the Use upon the Potential Market for or Value of the Copyrighted Work:** If the use of the copyrighted material is likely to compete with the original work in its market or diminish its value, it is less likely to be considered fair dealing. The economic impact on the copyright holder is a significant consideration.¹⁶

Several landmark cases illustrate these principles. In *The Chancellor, Masters & Scholars of the University of Oxford & Ors. v Rameshwari Photocopy Services & Anr.*, the Delhi High Court, dealing with educational use, emphasized that the Copyright Act should not stifle education and must be interpreted to favor access to learning resources, suggesting a broader interpretation of fair dealing in educational contexts.¹⁷ Conversely, in cases like *India TV Independent News Service Pvt. Ltd. & Ors. v Yash Raj Films Pvt. Ltd.*,¹⁸ the Delhi High Court ruled that the extensive and repeated use of entire musical compositions in the background of news broadcasts went beyond the scope of fair dealing, even though

reporting current events is a permitted purpose.¹⁹ This judgment highlighted that the exception does not allow for commercial exploitation disguised as fair reporting, particularly when the use is substantial and not merely incidental. Similarly, in *Super Cassettes Industries Ltd. v Hamar Television Network Pvt. Ltd.*,²⁰ the Delhi High Court found that repeated and extensive broadcasting of entire songs by a television channel during entertainment news broadcasts could not be deemed "fair".²¹

These precedents underscore that fair dealing is not a license for unfettered use. Courts strive to balance the rights of copyright owners with the public interest, but the determination of "fairness" remains highly contextual and fact-dependent, leading to a degree of uncertainty for creators.

The Role of Transformative Use and the 'De Minimis' Doctrine in Indian Copyright Law

The concepts of "transformative use" and the 'de minimis non curat lex' (the law does not concern itself with trifles) principle, while well-established in some international copyright regimes, have a more nascent and evolving presence in Indian jurisprudence.

Transformative Use: Transformative use refers to the creation of a new work that, by using existing copyrighted material, adds a new expression, meaning, or message, thereby altering the original with new information, aesthetics, insights, or understanding.²² While the Indian Copyright Act, 1957, does protect "transformative work" in the sense that an artist can modify or reinterpret existing material to create something new and distinct,²³ the doctrine of transformative use as a specific defense or a key factor in determining fair dealing is not explicitly codified as it is in US fair use law.²⁴

Indian courts have, however, begun to consider transformative elements. For instance, in *The Chancellor, Masters & Scholars of the University of Oxford v NALSAR & Ors.*, the Delhi High Court acknowledged that guidebooks providing solutions and explanations to textbook problems could be considered transformative, serving a distinct educational purpose from the original textbooks.²⁵ This suggests an openness to considering the value added by the secondary work. However, the lack of explicit statutory recognition or consistent high-court articulation of "transformative use" as a central pillar of fair dealing analysis means Indian YouTubers who engage in commentary, criticism, or parody activities

that are inherently transformative may not benefit from as robust a defense as their US counterparts. This legal ambiguity is a significant vulnerability. If Indian courts were to more consistently and explicitly adopt transformative use as a strong indicator of fairness, it would greatly aid creators whose work builds upon existing materials to offer new perspectives.

The emphasis on "non-commercial intent" in certain judicial interpretations of fair dealing further complicates the situation for monetized YouTube channels. Within Indian fair dealing jurisprudence, this focus presents significant challenges for monetized YouTube creators. Indian courts often evaluate whether the use serves purposes of criticism, review, or education, and whether it qualifies as non-commercial use. For example, in *The Chancellor, Masters & Scholars of the University of Oxford v Rameshwari Photocopy Services & Anr.*,²⁰ the Delhi High Court permitted copying for educational purposes, highlighting the non-commercial nature of the action. Conversely, cases such as *India TV Independent News Service Pvt. Ltd. & Ors. v Yash Raj Films Pvt. Ltd.*²¹ and *Super Cassettes Industries Ltd. v. Hamar Television Network Pvt. Ltd.*²³ demonstrate that the pursuit of commercial gain may reduce the applicability of fair-dealing exceptions, even for transformative uses like commentary or reporting. This judicial focus on non-commerciality creates legal ambiguity for creators who incorporate commentary, critique, or educational value while generating revenue. In the absence of explicit recognition of commercial transformative use, Indian YouTubers remain vulnerable to copyright claims, despite producing content that contributes new perspectives or public discourse.

If any commercial aspect automatically disqualifies a use from being fair dealing, even if the primary purpose is criticism or news reporting, then the practical utility of fair dealing for many online creators is severely diminished. This strict interpretation appears to be in tension with the underlying objectives of fair dealing, which are to facilitate public interest activities.²⁶ A more nuanced approach would assess whether the specific use of the copyrighted material is primarily for commercial exploitation of that material itself, or if the commercial aspect is incidental to the overall purpose of the creator's new, transformative work. While some sources indicate a strict stance against commercial use

under fair dealing, others, referencing US fair use principles which Indian courts sometimes look to, suggest that monetizing a video containing fair use material is still possible.²⁷ This discrepancy highlights an area ripe for legislative or judicial clarification in India.

'De Minimis Non Curat Lex'

The principle of *de minimis non curat lex*, meaning "the law does not concern itself with trifles," is applied with caution and limited scope within Indian copyright law.²⁸ In the case of *India TV Independent News Service Pvt. Ltd. & Ors. v Yashraj Films Pvt. Ltd.*, the Delhi High Court evaluated two scenarios: the first involved the use of the opening line of the song *Kajra Re Kajra Re* in a television advertisement, and the second involved a singer performing nine stanzas from nine different songs on a chat show. The Court emphasized that the quantity of content used, its qualitative significance, and its market impact are critical factors in determining whether a use is trivial.²⁹ Similarly, in *Super Cassettes Industries Ltd. v Hamar Television Network Pvt. Ltd.*, the Court rejected a *de minimis* defense where commercial exploitation and market harm were evident.³⁰ The Supreme Court, in *Civic Chandran v Ammini Amma*, recognized that minor, good-faith use for purposes such as criticism or review might not constitute infringement, although it refrained from broadly defining the scope of *de minimis*.³¹

Despite these precedents, Indian courts have not established consistent standards for applying the *de minimis* principle, leaving its scope uncertain.³² In contrast, courts in the United States and the European Union have occasionally been more receptive to treating minimal or fleeting use as outside the scope of infringement, particularly where market harm is absent.³³ In India, however, even quantitatively small uses may be actionable if they involve the "heart" of the work or are exploited for commercial gain. This creates particular challenges in the digital environment: for instance, YouTubers who use short news or music clips in commentary or parody may find the *de minimis* defense unreliable, as rights holders can argue that even a few seconds impact the market. Scholars have noted that this strict and uncertain approach risks chilling creativity and undermining user-generated content, making it difficult for smaller creators to defend their work without access to licensing arrangements.³⁴ Academic

commentary has further observed that the absence of statutory recognition of *de minimis* in the Indian Copyright Act contributes to its inconsistent judicial treatment, contrasting with jurisdictions where the doctrine has clearer doctrinal grounding.³⁵

The underdeveloped nature of both “transformative use” as a distinct fair dealing factor and the *de minimis* doctrine in Indian copyright jurisprudence leaves Indian YouTubers in a comparatively vulnerable position. Indian courts have occasionally recognized transformative dimensions in fair dealing, for instance, in *The Chancellor, Masters & Scholars of the University of Oxford v Rameshwari Photocopy Services* the Delhi High Court emphasized that educational reproductions may serve a purpose distinct from the original,¹⁷ and in *Civic Chandran v. Ammini Amma* the Supreme Court acknowledged that reworking a play with added critical commentary could qualify as fair dealing.³⁶ These precedents suggest that commentary, criticism, parody, or other transformative YouTube content could, in principle, fall within the scope of fair dealing protections. However, because Indian courts have not consistently or explicitly articulated “transformative use” as a central factor, and because the application of *de minimis* remains narrow and uncertain, creators face unpredictable outcomes when challenged in court. This doctrinal ambiguity becomes especially problematic in the digital environment, where platforms like YouTube enforce copyright through automated tools such as Content ID. Even uses that may be legally defensible under fair dealing are often flagged, monetized, or removed without judicial assessment.³⁷ Scholars have further noted that India’s copyright jurisprudence has yet to fully incorporate transformative use analysis into its statutory framework,¹² and that the absence of clear doctrinal guidelines exacerbates risks for digital creators who rely on short excerpts for commentary or reporting.¹⁵ Thus, while Indian law does provide some space for transformative uses, the lack of clarity combined with automated enforcement regimes compounds the vulnerability of Indian YouTubers, reinforcing the argument that governance mechanisms, rather than statutory law alone, are at the heart of their challenges.

International Benchmarks: Fair Use and Copyright Exceptions in the US and EU

To better understand the challenges faced by Indian YouTubers, it is instructive to compare India's fair

dealing doctrine with the approaches to copyright exceptions in the United States and the European Union. These jurisdictions offer different models that have significant implications for online content creators.

The United States Fair Use Doctrine: Flexibility and the Four-Factor Analysis

The United States employs the doctrine of "fair use," codified in Section 107 of the US Copyright Act. Unlike India's fair dealing, which lists specific permitted purposes, US fair use is an open-ended and flexible doctrine.³⁸ It allows for the unlicensed use of copyrighted materials in certain circumstances, determined on a case-by-case basis through an equitable balancing of four statutory factors:

- (i) **The Purpose and Character of the Use:** This factor examines whether the use is commercial or for non-profit educational purposes. Crucially, it heavily emphasizes whether the use is "transformative" – meaning it adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message. Uses for criticism, comment, news reporting, teaching, scholarship, or research are explicitly mentioned as examples of purposes often favored. While commercial uses are less likely to be deemed fair, it is possible for a monetized work to qualify.³⁹
- (ii) **The Nature of the Copyrighted Work:** This factor considers whether the original work is primarily factual or creative. Use of factual works (e.g., news reports, research papers) is generally more likely to be considered fair than use of highly imaginative or fictional works (e.g., novels, feature films).³⁸
- (iii) **The Amount and Substantiality of the Portion Used in Relation to the Copyrighted Work as a Whole:** This involves assessing both the quantity and quality of the material taken. Using a small portion is more likely to be fair, but even a small taking can be unfair if it captures the "heart" of the original work.³⁹
- (iv) **The Effect of the Use upon the Potential Market for or Value of the Copyrighted Work:** This factor analyzes whether the unlicensed use harms the current or future market for the original work by acting as a substitute. If the use significantly impairs the

copyright holder's ability to profit from their work, it weighs against fair use. Parodies, however, are sometimes given more leeway under this factor.⁴⁰

The US fair use doctrine's flexibility and strong emphasis on transformative use provide significant protection for creators who engage in commentary, criticism, parody, and news reporting using excerpts of copyrighted material. For YouTubers, this means that if their use of a news clip, for example, is genuinely transformative – adding substantial commentary, analysis, or critique – it has a strong likelihood of being considered fair use, even if the channel is monetized. This contrasts with the more purpose-driven and less explicitly transformative-focused approach in India.

Copyright Exceptions in the European Union: The DSM Directive and User Rights (Quotation, Criticism, Parody, Pastiche)

The European Union's approach to copyright exceptions has been significantly shaped by the Directive on Copyright in the Digital Single Market (DSM Directive 2019/790). While the EU traditionally relied on a closed list of exceptions that member states could choose to implement, the DSM Directive, particularly Article 17, introduces important changes relevant to online platforms and user-generated content. Article 17 addresses the liability of "Online Content-Sharing Service Providers" (OCSSPs), such as YouTube, for content uploaded by their users. It establishes that these platforms perform an act of communication to the public and are therefore generally liable for copyright infringements unless they meet certain conditions, including making best efforts to obtain authorization from rightsholders. Crucially for users, Article 17(7) mandates that Member States ensure users can rely on specific existing exceptions or limitations when uploading and making available content.⁴¹ These mandatory exceptions include:

- (i) Quotation, criticism, review
- (ii) Use for the purpose of caricature, parody, or pastiche.⁴²

This provision aims to balance copyright protection with fundamental rights like freedom of expression and freedom of the arts. Platforms are obligated to ensure that their cooperation with rightsholders does not prevent the availability of user-uploaded works that fall under these exceptions.⁴³ The concept of "pastiche" is particularly noteworthy. While not

universally defined across all EU member states prior to the Directive, its inclusion as a mandatory exception is significant. German law implementing the DSM Directive, for instance, interprets pastiche broadly to cover creative adaptations like internet memes, remixes, and reaction videos, provided there is a recognizable reference to the original and an artistic engagement or dialogue with it, often involving transformation. This requires the new work to show clear differences and have its own character, not just be a simple copy.⁴⁴ Furthermore, Article 17 requires OCSSPs to implement effective and expeditious complaint and redress mechanisms for users whose content has been taken down or blocked, with such complaints subject to human review.⁴⁵ It also prohibits general monitoring obligations, meaning platforms are not required to proactively filter all content for all possible infringements, but rather act on specific information from rightsholders and prevent re-uploads of identified infringing content. However, there is an expectation that platforms will use technology to prevent the upload of content for which rightsholders have provided necessary information, often referred to as "upload filters" in practice, though the Directive aims to ensure these do not lead to "overblocking" of legitimate content.⁴⁶

Comparative Analysis: Implications of Differing Approaches for Online News Clips and Commentary

The three legal frameworks—India's fair dealing, US fair use, and EU copyright exceptions under the DSM Directive present distinct approaches with varying implications for online creators using short news clips for commentary, criticism, or parody. A detailed comparison of these frameworks is provided in Table 1.

India's system, with its enumerated purposes, can be seen as more rigid. While reporting of current events and criticism or review are explicitly allowed, the determination of fairness regarding the amount used and market impact remains a significant hurdle, especially with the less-developed concept of transformative use. This makes Indian YouTubers using news clips for commentary more vulnerable to claims that their use is substantial or commercially motivated, even if it adds significant new value. US fair use, with its emphasis on transformativeness, offers potentially broader protection for such uses.⁵⁰ A short news clip heavily overlaid with critical commentary or used in a parody is likely to be

Table 1 — Comparative overview of copyright exceptions for online content

Feature	India (Fair Dealing - Sec 52)	US (Fair Use - Sec 107)	EU (DSM Directive Art. 17 & National Exceptions)
Legal Basis	Copyright Act, 1957, Section 52(1)(a)	US Copyright Act, Section 107	EU DSM Directive 2019/790, Art. 17(7); National laws implementing InfoSoc Directive exceptions. ⁴⁷
Overall Approach	Enumerated list of specific permitted purposes; restrictive interpretation.	Open-ended, flexible doctrine; case-by-case four-factor balancing test. ⁴⁸	Harmonized mandatory exceptions for specific user-generated content types (quotation, criticism, review, caricature, parody, pastiche) that platforms must uphold. Other exceptions vary by member state. ⁴⁹
Key Purposes/ Factors	Purposes: Private/personal use (research), criticism/review, reporting current events. Factors: purpose, nature, amount, market effect (judicially applied).	Four factors: Purpose/character (transformative), nature of work, amount/substantiality, market effect.	Specific purposes for mandatory exceptions: quotation, criticism, review, caricature, parody, pastiche. For other exceptions, national laws apply the three-step test (Berne Convention).
Role of Transformative Use	Not explicitly codified as a central factor; emerging in judicial interpretation but less defined.	Central and highly favored factor in assessing purpose and character of use.	Implicit in concepts like parody and pastiche, which often require transformation or new meaning. Not a general overarching factor like in the US for all exceptions.
Application to Short News/Commentary/Parody Clips	Permitted if purpose is reporting, criticism, review, and dealing is "fair" (quantum, market effect). Vulnerable if commercial or substantial taking is argued.	Strong protection if use is transformative (adds commentary, criticism, parody) and other factors balance favorably. Amount used is one of several considerations.	Strong protection for quotation, criticism, review, parody, pastiche under Art. 17(7). Use of "very short extracts" of press publications (snippets) generally allowed. The extent of "quotation" still subject to interpretation.
Platform Obligations for User Exceptions (Post-DSM for EU)	No specific statutory obligation on platforms to proactively protect fair dealing uses beyond general intermediary liability rules.	Platforms generally rely on DMCA notice-and-takedown; fair use is an affirmative defense for users. YouTube has a Fair Use Protection Initiative for some US creators.	Art. 17 DSMD obligates platforms to ensure legitimate user content under specified exceptions (quotation, criticism, parody, etc.) is not blocked and remains available; must have effective redress mechanisms. Must avoid over blocking "manifestly non-infringing" content.

considered transformative, and this can often outweigh concerns about the commercial nature of the YouTube channel or even the substantiality of the clip if it's essential for the transformative purpose.

The EU's DSM Directive, particularly Article 17, attempts a different approach. By mandating that platforms ensure the availability of content falling under specific exceptions like quotation, criticism, review, parody, and pastiche, it shifts some responsibility onto platforms to proactively protect these user rights.⁴² This is a significant departure from a purely reactive notice-and-takedown system. The obligation on platforms to not prevent the availability of legitimate user content under these exceptions, and to ensure that automated filtering does not systematically remove such content, could offer stronger upfront protection for European YouTubers engaging in these specific activities.⁵¹ If a use clearly falls into one of these categories, the platform has a duty to allow it. This model could offer valuable lessons for India in considering reforms to platform

accountability and creator protection. The EU aims to ensure that users can rely on these exceptions before content is unduly taken down, which is a critical difference from systems where fair use/dealing is primarily an argument to be made after a takedown.

The interpretation of "amount and substantiality" also varies. While a crucial factor everywhere, its weight relative to transformative value differs. In India, a quantitatively small but qualitatively important clip might be heavily scrutinized for fairness, potentially irrespective of the transformative commentary added. In the US, a strong transformative purpose can often justify the use of even the "heart" of a work if necessary for that purpose. The EU's specific exceptions like "quotation" inherently imply using portions of works, but the permissible extent will still be governed by principles of fairness and proportionality, ensuring the use doesn't substitute for the original. These comparative differences highlight the unique pressures on Indian YouTubers, who operate under a fair dealing regime that is less flexible than US fair use and currently lacks the platform-level

safeguards for specific user expressions being introduced in the EU.

YouTube's Copyright Enforcement Regime: Balancing Rights or Stifling Creativity?

YouTube, as the dominant global video-sharing platform, employs a complex system for copyright management. While intended to protect rightsholders and comply with laws like the US Digital Millennium Copyright Act (DMCA), its mechanisms have faced significant criticism for their impact on creators, particularly concerning the nuanced application of fair use and fair dealing.⁵²

Content ID and Copyright Strikes: Automation, Accuracy, and Impact

At the heart of YouTube's copyright enforcement is the Content ID system.⁵³ This is an automated, digital fingerprinting technology that scans virtually every video uploaded to the platform against a vast database of copyrighted material submitted by rightsholders.⁵⁴ When Content ID finds a match, it allows the rightsholder to choose from several actions:⁵⁵

- (i) Block the video from being viewed (either globally or in specific regions).
- (ii) Monetize the video by running ads against it, with revenue often going to the rightsholder (sometimes shared with the uploader if permitted by the claimant).
- (iii) Track the video's viewership statistics.

A major criticism is that Content ID operates with a functional blindness to fair dealing or fair use nuances. The system is designed for scale and speed, identifying matching content based on audio or visual fingerprints, but it is not equipped to make the complex, contextual legal judgment of whether a use is fair. Initial matches and actions often occur without human review from YouTube's side.⁵⁶

Separate from Content ID claims (which are often about monetization or tracking) are copyright strikes. A copyright strike is a more punitive action, typically issued when a copyright owner submits a formal, legal request for YouTube to remove a video due to alleged copyright infringement. YouTube states that it reviews these removal requests, and if a request appears to be valid, the video is removed, and a strike is issued to the uploader's channel. Receiving a copyright strike has several consequences:⁵⁷

- (i) The first strike may result in a temporary loss of certain channel features (e.g., uploading, live streaming) for one week.

- (ii) Strikes expire after 90 days, provided the creator completes copyright school requirements (an online tutorial and quiz on YouTube's copyright policies).⁵⁶
- (iii) Accumulating three copyright strikes within a 90-day period can lead to the permanent termination of the creator's channel, deletion of all uploaded videos, and a ban on creating new channels. This "three strikes" rule creates extremely high stakes for creators.

YouTube also offers a copyright match tool, which helps creators (including those not eligible for Content ID) find re-uploads of their original content on other channels, allowing them to request removal.⁵⁸ The automated nature of Content ID, combined with the severe consequences of copyright strikes, creates an environment where creators can feel constantly at risk, especially if their work involves using third-party material for purposes like commentary, criticism, or parody, which should theoretically be protected by fair dealing or fair use.

YouTube's Adjudication of Fair Use/Dealing Claims: Policies and Practices

YouTube's official policies acknowledge the existence of copyright exceptions like fair use and fair dealing. The platform states that using copyrighted material without permission is possible in some cases, such as for educational purposes, news reporting, criticism, or commentary, and that "fair use" definitions differ by country.⁵⁹ YouTube also claims that it asks rightsholders to consider whether copyright exceptions apply before they submit a copyright removal request and requires them to provide an adequate explanation if they believe an exception does not apply to the content they are flagging. However, there is a significant disconnect between these stated policies and the practical experience of many creators. YouTube consistently maintains that only courts can make a definitive determination of fair use or fair dealing. The platform explicitly states that it is not able to mediate rights ownership disputes.⁶⁰ When YouTube receives what it deems a complete and valid copyright removal request, it removes the content as the law requires.⁶¹

This stance creates a fundamental problem: Content ID automates the detection of potential infringements without nuanced fair dealing assessment. Rightsholders are given significant

discretion in filing claims and takedown requests. While YouTube may ask claimants to consider exceptions, the effectiveness of this request is questionable, as the platform itself avoids making the substantive judgment on fairness. This leaves creators in a difficult position where their content can be blocked, demonetized, or removed based on an initial claim, with the burden falling on them to prove their use is fair through a complex dispute process, often against well-resourced claimants. There is also ambiguity regarding which legal standard YouTube applies globally. While its help pages often refer to US fair use principles and the DMCA, the platform also states it works under applicable copyright laws of different countries. Whether Indian fair dealing principles under Section 52 are adequately and proactively considered by YouTube's systems and review processes before action is taken against Indian creators remains unclear and a point of concern.

Due Process for Creators: Transparency, Appeals, and Dispute Resolution

YouTube has established processes for creators to challenge copyright claims and strikes, but their fairness, transparency, and effectiveness are frequently questioned. For Content ID claims, creators can file a dispute if they believe the claim is incorrect (e.g., they have the necessary rights, the use is fair dealing/fair use, or it's a misidentification).⁶² Once a dispute is filed:⁶³

- The claimant (the rightsholder who made the claim) is notified and has 30 days to respond.
- The claimant can choose to:
 - Release the claim: If they agree with the dispute.
 - Reinstate the claim: If they believe their claim is still valid. The dispute is then rejected.
 - Submit a takedown request: This escalates the Content ID claim to a formal copyright removal request, which can result in a copyright strike.
- If a dispute is rejected, the creator may be eligible to appeal this decision. This appeal is also reviewed by the claimant. If the claimant rejects the appeal and wishes to keep the claim active, they may issue a formal takedown request.

For copyright strikes resulting from formal takedown requests, creators have a few options:⁶⁴

- Wait for the strike to expire (after 90 days, if no further strikes are received and copyright school is completed).

- Request a retraction from the copyright owner who issued the takedown.
- Submit a counter-notification (under DMCA-like procedures). This is a legal request for YouTube to reinstate the content. If a valid counter-notification is filed, YouTube forwards it to the claimant. The claimant then has a limited time (typically 10-14 business days) to inform YouTube that they have filed a court action seeking an order to restrain the uploader from engaging in the infringing activity. If the claimant does not provide such proof, YouTube may reinstate the content.

Despite these mechanisms, significant concerns about due process persist:

- Assumption of Guilt: Critics argue that the system often assumes the creator's guilt and sides with the copyright holder, even when no infringement has occurred or a valid fair dealing/fair use defense exists. The initial action (claim, block, takedown) happens first, and the creator must then fight to reverse it.⁶⁵
- Lack of Transparency: There is a perceived lack of transparency in how YouTube initially reviews takedown requests before issuing a strike (the standard is often cited as whether the request appears to be valid") and how it assesses any fair use/dealing arguments presented by creators during disputes. Detailed reasons for upholding claims are often not provided.⁶⁶
- Burden on Creators: The onus of proving fair dealing and navigating the dispute and counter-notification process falls heavily on creators. This can be time-consuming, complex, and intimidating, especially when facing large, legally sophisticated entities. The prospect of a lawsuit following a counter-notification is a significant deterrent for many independent creators, regardless of the merits of their case.⁶⁷
- Claimant as Judge: In the Content ID dispute and appeal process, the claimant (the accuser) is the one who reviews and decides on the creator's arguments. This raises obvious concerns about impartiality. While YouTube frames this as facilitating direct resolution between parties, it often means the more powerful party dictates the outcome short of court action.⁶⁸

YouTube's Copyright Transparency Report indicates that less than 1% of the billions of Content ID claims made are disputed, and of those disputed,

over 65% result in the claim being released.⁶⁹ While this success rate for disputed claims might seem positive, the extremely low dispute rate itself could be interpreted not as widespread satisfaction with claims, but potentially as a sign of creator resignation, fear of escalation, or the complexity of the dispute process. The system, while offering avenues for recourse, can feel like a gauntlet designed to filter out those unable or unwilling to bear the procedural and potential legal burdens, irrespective of the legitimacy of their fair dealing defense.

Case Focus: Allegations of Copyright Misuse by ANI against Indian Content Creators

The controversy surrounding Asian News International (ANI) and Indian YouTubers demonstrates the practical difficulties creators face under India's copyright regime. Several content creators producing news and commentary videos reported receiving copyright strikes for extremely short clips, some as brief as 9–15 seconds. Following these strikes, ANI allegedly demanded substantial licensing fees, reportedly ranging from INR 15–50 lakh,⁷⁰ notable cases include Mohak Mangal, whose videos were flagged despite featuring clips of only 9–11 seconds, with ANI reportedly demanding INR 45–50 lakh plus GST to retract the strikes.⁷¹ Similarly, Rajat Pawar claimed ANI asked for ₹18 lakh after issuing strikes on his content.⁷² Other creators have reported similar experiences, receiving strikes for minimal use of clips, often accompanied by significant settlement demands.⁷³ Media observers, including The Reporters' Collective, suggest these patterns reflect a deliberate strategy by ANI to negotiate costly licenses by exploiting the threat of automated copyright enforcement.⁷¹ Outlook India characterized such tactics as “unethical, but lawful,” underscoring the tension between the legal right to enforce copyright and the burden placed on creators.⁷⁴

ANI maintains that its actions are lawful, emphasizing that any disputes can be resolved through legal channels, and asserting that enforcement aims to protect its intellectual property rather than intimidate creators.⁷⁵⁻⁷⁶ These incidents highlight the urgent need for clearer statutory guidance on fair dealing and transformative use in India. Without explicit legal parameters, automated enforcement systems like YouTube's Content ID can disproportionately affect creators, even when their use may be defensible under fair dealing principles. This situation highlights several critical issues:

- **Coercive Environment:** The threat of channel deletion under YouTube's three-strike policy, combined with the high cost and complexity of legal battles, creates a coercive environment where creators might feel compelled to pay exorbitant licensing fees even if they believe their use is permissible under fair dealing.
- **Bypassing Fair Dealing:** The core issue is that fair dealing arguments for using short news clips for commentary or analysis (explicitly permitted purposes under Section 52 of the Indian Copyright Act) appear to be preemptively dismissed or ignored in this dynamic. The focus shifts from a good-faith negotiation over fair use to leveraging platform mechanics for financial gain or content control.
- **YouTube's Role:** YouTube's official stance is that the resolution of copyright disputes ultimately lies between the involved parties or, if necessary, the courts. While YouTube reviews initial takedown requests, its system heavily relies on rightsholder claims and its dispute process often places the decision-making power back with the claimant before any judicial review. This effectively hands-off approach can inadvertently facilitate the alleged coercive tactics.

The ANI case exemplifies how the interaction between automated platform enforcement, the potent threat of channel termination, and the resource asymmetry between large rightsholders and individual creators can lead to outcomes that seem to undermine the very purpose of fair dealing exceptions designed to foster public discourse and access to information. A detailed breakdown of these tools, their stated purposes, and their observed impacts is provided in the Table 2.

Pathways to Reform: Strengthening Protections for Indian YouTubers

The challenges faced by Indian YouTubers necessitate a multi-pronged approach to reform, involving actions by both YouTube and the Indian government. The goal is to create a more balanced and equitable copyright ecosystem that respects the rights of copyright holders while robustly protecting legitimate creator expression under the doctrine of fair dealing.

Recommendations for YouTube

YouTube, as the platform where these interactions occur, has a significant role to play in refining its systems and policies.

Table 2 — Analysis of YouTube's copyright management tools and processes

Tool/Process	Description & Stated Purpose	Observed Creator Impact (Positive/Negative)	Key Issues/Criticisms
Content ID	Automated fingerprinting system; scans upload against rightsholder database; allows rightsholders to block, monetize, or track matching content. Purpose: Efficient copyright management at scale.	Negative: Frequent erroneous claims, demonetization/blocking of legitimate fair use/dealing content. Can be used to claim revenue from transformative works. Positive (for rightsholders): Effective at finding and managing unauthorized uses of their full content.	Automation bias (blind to fair dealing/use nuances); lack of initial human review from YouTube; opacity in matching algorithms; potential for abuse by claimants making overly broad claims.
Copyright Strike	Punitive measure issued after a rightsholder submits a formal takedown request and YouTube deems it "valid". Three strikes in 90 days can lead to channel termination. Purpose: Comply with copyright law (e.g., DMCA) and penalize repeat infringers.	Highly Negative: Severe consequences (channel termination) create fear and chilling effect; can be issued for uses creators believe are fair dealing. Used as leverage by some claimants.	Assumes guilt before full adjudication; "validity" review by YouTube lacks transparency; high stakes encourage compliance even with questionable claims; disproportionate impact on smaller creators.
Copyright Tool	Match Finds videos similar to a creator's own uploads, allowing them to request removal. Purpose: Help creators protect their own original content from unauthorized re-uploads.	Positive (for creators as rightsholders): Empowers creators to manage their own IP. Neutral/Potentially Negative (for users of clips): Could be used aggressively if the original creator does not understand fair dealing.	Relies on creator's judgment for takedown requests; potential for misuse if fair dealing is not considered by the requesting creator.
Content ID Process	Dispute Allows uploaders to dispute claims. Claimant has 30 days to review and release, reinstate, or issue takedown. Purpose: Provide a mechanism for creators to challenge claims.	Mixed: Some disputes are successful (claim released). However, process is often seen as claimant-favored, as claimant reviews their own claim. Can be lengthy and stressful.	Claimant acts as judge of their own claim; lack of impartial review at initial stages; risk of claim reinstatement or escalation to takedown without clear justification from claimant to creator.
Strike Counter-Notification	Appeal / For strikes: creators can appeal to YouTube (for Community Guideline strikes, process for copyright strikes is typically counter-notification) or submit a DMCA counter-notification. Counter-notification requires submitting to court jurisdiction. Purpose: Formal legal process to contest a takedown.	Negative/High-Risk: Counter-notification is a serious legal step involving risk of lawsuit. Many creators are deterred by cost and complexity, regardless of merits. Appeal process for strikes (distinct from Content ID appeals) can be opaque.	Burden of proof and legal risk falls heavily on the creator; power imbalance favors well-resourced claimants; YouTube avoids mediating the core fair use/dealing dispute.

Enhancing Fair Dealing Assessment within Content ID and Strike Issuance

Currently, YouTube's Content ID system is largely "blind" to the nuances of fair dealing and fair use. To address this, YouTube should invest in developing more sophisticated algorithms and significantly expand human review processes, particularly for content originating from or targeted at jurisdictions with specific fair dealing laws like India. This enhanced assessment should aim to identify prima facie instances of fair dealing before a claim is automatically actioned or a strike is issued. This could involve:

- **Contextual Analysis:** Developing tools that can better analyze the context of a clip's use, such as the ratio of copyrighted material to original commentary, the transformative nature of the additions (e.g., criticism, parody, news analysis), and common practices within specific genres like news commentary or reviews.
- **Claimant Justification:** While YouTube states it asks claimants to consider exceptions and provide justification, this process needs to be more rigorous. Claimants, especially those making claims against content clearly intended as news reporting, criticism, or parody using short excerpts,

should be required to provide a detailed, specific justification as to why the particular use does not qualify as fair dealing under the applicable national law (e.g., India's Section 52). Failure to provide a credible justification could weigh against the claim.

Implementing Independent Review Panels or Arbitration for Complex Disputes

The current dispute resolution process, where the claimant often acts as the reviewer of their own claim, is inherently problematic. For complex disputes involving significant fair dealing questions, or in cases where creators face severe penalties like channel termination, YouTube should establish an impartial and accessible alternative dispute resolution mechanism. This could take the form of:

- **Independent Arbitration System:** A system where neutral, third-party arbitrators with expertise in copyright law (including Indian copyright law) can adjudicate disputes. This would offer a more balanced and less costly alternative to court proceedings, which YouTube currently identifies as the ultimate resolution path.
- **Expert Review Panels:** Panels composed of legal experts, academics, and representatives from creator communities could review contentious cases. Their non-binding or binding recommendations could guide YouTube's actions and provide a more equitable outcome. The EU's DSM Directive encourages Member States to ensure users have access to out-of-court redress mechanisms, a principle YouTube could proactively adopt globally.

Improving Transparency in Adjudication and Creator Communication

Lack of transparency is a major complaint from creators. YouTube should:

- **Provide Detailed Explanations:** When a claim is upheld or a dispute/appeal is rejected, creators should receive clear, specific, and legally relevant explanations that directly address their fair dealing arguments, rather than generic notifications.
- **Clarify Initial Review Processes:** Be more transparent about how initial copyright takedown requests are reviewed before a strike is issued. What specific criteria are used to determine if a request "appears to be valid"?
- **Granular Reporting:** Publish more detailed and granular data in its Copyright Transparency Report regarding dispute resolutions. This should include

success rates broken down by jurisdiction, type of content (e.g., news commentary, parody), nature of claimant (e.g., large corporation, individual creator), and specific fair dealing arguments raised.

Recommendations for the Indian Government

The Indian government has a crucial role in modernizing its copyright framework and ensuring its effective application in the digital age.

1. Legislative Clarification of Fair Dealing for Online Uses and Transformative Works:

The existing provisions of Section 52 of the Copyright Act, 1957, while providing a basis for fair dealing, lack the specificity needed for the complexities of the online environment. The government should consider:

- **Amendments for Digital Context:** Amending the Copyright Act to provide greater clarity on the application of fair dealing to online video content, including the use of short clips for news reporting, commentary, criticism, and parody.
- **Explicit Recognition of Transformative Use:** Explicitly incorporating "transformative use" as a key positive factor in determining fair dealing, similar to its central role in US fair use law. This would provide stronger legal backing for creators who add significant new expression, meaning, or message to existing works.
- **Guidelines on Substantiality:** Issuing clearer guidelines or legislative explanations on what constitutes a "substantial" portion in the context of short audio-visual clips used for purposes like news reporting and commentary. This could involve considering the proportion of the clip to the new work, the purpose of the use, and whether the use is genuinely transformative. The current lack of specificity is a significant area of ambiguity.

Exploring an Oversight/Regulatory Body for Digital Copyright Issues

Given the power dynamics and the scale of digital copyright enforcement, there is a case for establishing a specialized body or an ombudsman to:

- **Oversee Digital Copyright Disputes:** This body could mediate disputes between creators and large rightsholders or platforms, particularly in cases of alleged systemic abuse of copyright claims or fair dealing.
- **Promote Fair Practices:** Develop and promote codes of conduct for digital platforms and

rightsholders regarding the assertion of copyright claims and the respect for fair dealing principles.

- **Provide Accessible Redressal:** Offer a more accessible, less expensive redressal mechanism for creators who believe their fair dealing rights are being systematically infringed or ignored by platforms or powerful claimants. This could act as an intermediary step before resorting to courts. The call for urgent revision of the Copyright Act to address the complexities of the digital creator economy supports the need for such adaptive governance.

The current system often places an overwhelming burden of proof and financial risk on individual creators when they are confronted by claims from large, well-resourced entities. The proposed reforms aim to rebalance this dynamic by introducing greater platform accountability, providing more accessible and impartial dispute resolution mechanisms, and clarifying the legal framework to better reflect the realities of online content creation and the importance of fair dealing. The EU DSM Directive's model, which mandates platforms to ensure specific user exceptions like parody and criticism are respected and content falling under them remains available, offers a compelling precedent. This shifts some responsibility onto platforms to proactively protect legitimate creator content, rather than defaulting to takedowns based on automated flags or unilateral claimant assertions, especially for content that is not "manifestly infringing". Adopting similar principles could significantly improve the environment for Indian YouTubers.

Limitations and Suggestions for Future Research

This paper provides a comprehensive analysis based on publicly available information, including published research papers, legal statutes, judicial precedents, news reports, and platform policies. However, certain limitations should be acknowledged, which in turn point toward avenues for future research.

Limitations

Reliance on Public Data: The analysis is constrained by its reliance on publicly accessible data. It does not incorporate proprietary internal data from YouTube regarding the specifics of its claim review process or from rightsholders like ANI concerning their copyright enforcement strategies. Such data would offer a more granular understanding of the issue.

- **Dynamic Environment:** The digital media landscape, platform policies, and legal interpretations of copyright law are in a constant state of flux. This report represents a snapshot in time, and its findings and recommendations should be viewed within this evolving context.
- **Generalization from Case Studies:** While the ANI case serves as a potent example, the report generalizes from this and other public cases. The specific dynamics of copyright disputes can vary significantly depending on the rightsholders, creators, and content involved.

Suggestions

Empirical Study of Copyright Claims in India: A large-scale empirical study is needed to quantify the scope of the problem. This would involve surveying Indian YouTubers across various genres to gather data on the frequency, nature, and outcomes of Content ID claims and copyright strikes, as well as their impact on content creation and monetization.

- **Techno-Legal Analysis of Fair Dealing Algorithms:** Future research could explore the technical feasibility of developing more sophisticated algorithms capable of making preliminary assessments of fair dealing. A collaborative study between legal scholars and computer scientists could investigate how contextual factors, such as transformative use, could be modeled to create fairer automated systems.
- **Economic Impact Assessment:** A detailed economic analysis of the financial impact of current copyright enforcement practices on India's independent creator economy is warranted. This would involve assessing revenue losses from demonetization, the costs associated with licensing and legal disputes, and the broader economic chilling effects on digital entrepreneurship.
- **Comparative Platform Governance:** A comparative study examining the copyright dispute resolution mechanisms of other major content platforms (e.g., TikTok, Instagram, Twitch) could identify alternative models and best practices that might inform reforms for YouTube and the digital ecosystem as a whole.

Conclusion

Forging a Balanced Copyright Ecosystem for India's Digital Future

The challenges confronting Indian YouTubers in the realm of copyright are emblematic of a broader

global tension between the imperative to protect intellectual property and the fundamental need to foster creative freedom, critical discourse, and access to information in the digital age. The aggressive assertion of copyright claims, exemplified by entities like ANI, coupled with the limitations of existing legal frameworks and the operational biases of platform enforcement mechanisms, has created an environment of uncertainty and risk for many Indian online creators. This Paper has underscored the critical importance of India's fair dealing doctrine, as enshrined in Section 52 of the Copyright Act, 1957, for enabling a vibrant digital ecosystem. This doctrine is intended to support essential activities such as news reporting, commentary, criticism, education, and parody – all of which are vital for an informed and engaged citizenry. However, the ambiguity in its application to online uses, particularly concerning the use of short news clips and the role of transformative works, leaves creators vulnerable. YouTube's copyright management system, while designed to handle the immense scale of content on its platform, often prioritizes automated enforcement and rightsholder claims over the nuanced, context-dependent assessments required by fair dealing. This can lead to the undue suppression of legitimate content, impose significant burdens on creators, and create a chilling effect on expression.

To address these complex concerns, a collaborative and concerted effort is required from both YouTube and the Indian government. Rather than relying on procedural enforcement alone, platform governance must evolve to better recognize the contextual nature of fair dealing. In particular, YouTube should enhance fair dealing assessment within its Content ID system and during the issuance of copyright strikes by incorporating greater contextual analysis and requiring clearer justification from claimants. This would help reduce wrongful takedowns and improve the upfront recognition of lawful uses. Further, the introduction of independent review panels or arbitration mechanisms could offer creators a fairer, more accessible, and impartial forum for resolving complex fair dealing disputes, especially where automated tools are ill-equipped to evaluate transformative and purpose-driven uses. Improving transparency in settlement processes, including clearer explanations for enforcement decisions and more open communication with creators, would also strengthen trust and accountability within the platform's copyright governance framework.

At the level of public policy, legislative clarification is equally necessary. The Indian government should consider refining the scope of fair dealing to explicitly address online uses, transformative works, and the assessment of substantiality in the context of short digital clips. Such clarification would provide greater legal certainty for creators and strengthen protections for commentary, parody, education, and critical discourse. In addition, the establishment of an oversight or regulatory body dedicated to digital copyright governance could serve as a mechanism to address systemic abuse, mediate recurring disputes, and promote fair practices beyond individual court proceedings, thereby contributing to a more balanced and accessible copyright ecosystem.

A failure to adapt copyright principles and platform governance to the realities of the digital age risks creating a less diverse and more risk-averse online content landscape in India. Independent voices, critical commentary, and innovative transformative works may be muted by the fear of copyright strikes and the economic power of entrenched entities. This has implications that extend beyond copyright law, touching upon freedom of expression, media diversity, and the overall health of the digital public sphere. As Indian YouTubers continue to play an increasingly significant role globally, ensuring a fair and balanced copyright ecosystem is not merely a national imperative but also a contribution to fostering a more vibrant and equitable global information society. The path forward requires a sustained commitment to adapting legal frameworks and platform practices so that they function as enablers of creativity and democratic discourse rather than as barriers.

References

- 1 Mitra C, Explained: Why are YouTubers accusing news agency ANI of extortion? NDTV, New Delhi, Delhi, India, <https://www.ndtv.com/india-news/explained-creators-allege-copyright-strikes-by-ani-extortion-attempt-8526840> (accessed on 28 May 2025).
- 2 Kar A, ANI shares with court: It has taken up to ₹45 lakh from YouTuber' (The Reporters' Collective, 24 June 2025) <https://www.reporters-collective.in/trc/ani-shares-with-court-taken-up-to-45-lakh-from-youtubers> (accessed on 29 June 2025).
- 3 Chandrajit Mitra, Explained: Why are YouTubers accusing news agency ANI of extortion? (NDTV, 28 May 2025) <https://www.ndtv.com/india-news/explained-creators-allege-copyright-strikes-by-ani-extortion-attempt-8526840> (accessed on 29 June 2025).
- 4 *ANI v Mohak Mangal*: A copyright standoff threatening India's creator economy (Storyboard 18, 30 May 2025)

- <https://www.storyboard18.com/how-it-works/amid-ani-controversy-govt-broadcasters-make-content-free-or-affordable-for-creators-68075.htm> (accessed on 29 June 2025).
- 5 Parasnis S, How ANI's Copyright claims could undermine fair dealing exceptions for news reporting, (Media Nama, 22 May 2025) <https://www.medianama.com/2025/05/223-ani-copyright-strikes-youtubers-fair-use> (accessed on 29 June 2025).
 - 6 Mukherjee T, Unethical, But Lawful: The ANI v YouTubers dispute in a nutshell (Outlook India, 11 June 2025) <https://www.outlookindia.com/art-entertainment/unethical-but-lawful-the-ani-vs-youtubers-dispute-in-a-nutshell> (accessed on 29 June 2025).
 - 7 Parasnis S, Prasar Bharati offers free content to YouTubers As ANI dispute heats up (MediaNama, 02 June 2025) <https://www.medianama.com/2025/06/223-prasar-bharati-free-no-copyright-content-youtubers> (accessed on 29 June 2025).
 - 8 The Copyright Act, 1957, No. 14, Acts of Parliament, 1957, § 52(1) (a)–(h) (India). <https://copyright.gov.in/Documents/CopyrightRules1957.pdf>
 - 9 Balganes S & Nimmer D, Fair Use and Fair Dealing: Two approaches to limitations and exceptions in Copyright Law, India as a Pioneer of Innovation, Harbir Singh, Ananth Padmanabhan, Ezekiel J. Emanuel (Eds.), Oxford University Press (2017).
 - 10 Griffin R, Public and private power in social media governance: Multistakeholderism, the Rule of Law and Democratic Accountability' (2023) 14 Transnational Legal Theory 46.
 - 11 'Section 52 in the Copyright Act, 1957' (indiankanoon) <https://indiankanoon.org/doc/1013176/> (accessed on 29 June 2025).
 - 12 Bhusari R, Fair dealing under the Copyright Law: A critical analysis, *International Journal of Law Management and Humanities*, 5 (1) (2021) 1077.
 - 13 Klein B, Moss G & Edwards L, Understanding Copyright: Intellectual Property in the Digital Age (SAGE 2015).
 - 14 Prasad N & Aggarwal P, Facilitating educational needs in digital era: Adequacy of fair dealing provisions of Indian Copyright Act in question, *The Journal of World Intellectual Property*, 18 (2015) 150.
 - 15 Vignesh J, Doctrine of fair dealing in Indian Copyright Law, (Surana & Surana, 2 September 2022) <https://suranaandsurana.com/doctrine-of-fair-dealing-in-indian-copyright-law/> (accessed on 29 June 2025).
 - 16 Chandra A, Fair dealing under Section 52(1)(a) – Simple explanation of Copyright Law, (LegalOnus, 19 April 2025) <https://legalonus.com/fair-dealing-under-section-521a-simple-explanation-of-copyright-law/> (accessed on 29 June 2025).
 - 17 The Chancellor, Masters & Scholars of the University of Oxford & Ors. v Rameshwari Photocopy Services & Anr., 2016 SCC OnLine Del 6229, ¶ 28 (Delhi High Court).
 - 18 *India TV Independent News Service Pvt Ltd v Yash Raj Films Pvt Ltd* (2013) 53 PTC 586 (Del).
 - 19 Rastogi A, *India TV Independent News Service Pvt. Ltd. & Ors. v Yash Raj Films Pvt. Ltd.* (Indian Case Law, 11 September 2014) <https://indiancaselaw.in/india-tv-independent-news-service-pvt-ltd-ors-vs-yashraj-films-pvt-ltd/> (accessed on 29 June 2025).
 - 20 *Super Cassettes Industries Ltd. v Hamar Television Network Pvt. Ltd.*, 2011 (45) PTC 70 (Del). Available at: <https://indiankanoon.org/doc/543688/>.
 - 21 Law Essentials, *Super Cassettes Industries Ltd. v Hamar Television Network Pvt. Ltd.*, (Law Essentials) <https://lawessential.com/all-blogs/f/super-cassettes-industries-ltd-vs-hamar-network-pvt-ltd?blogcategory=Case%2BComments&utm> (accessed on 29 June 2025).
 - 22 Hilty R M & Moscon V, International instrument on permitted uses in Copyright Law: An introduction, *IIC - International Review of Intellectual Property and Competition Law*, 52 (2021) 1.
 - 23 Aishwarya K, Memes and their protection under Copyright Law, *Jus Corpus Law Journal*, 03 (2022) 1.
 - 24 Péter M, *et al.*, Unravelling the limitations of Indian Copyright Law in tackling generative AI challenges: An in-depth analysis, (COPY21) <http://copy21.com/2023/10/unravelling-the-limitations-of-indian-copyright-law-in-tackling-generative-ai-challenges-an-in-depth-analysis/> (accessed on 29 June 2025).
 - 25 'Supreme Court Revisits Fair Use Doctrine' (Copyright - India, 15 April 2009) <https://www.mondaq.com/india/copyright/78008/supreme-court-revisits-fair-use-doctrine> (accessed on 29 June 2025).
 - 26 Rosen D, Electronic dance music, creativity, and user-generated content – A Canadian perspective, *Intellectual Property Journal*, 26 (2) (2014) 153.
 - 27 Prasad N & Aggarwal P, Facilitating educational needs in digital era: Adequacy of fair dealing provisions of Indian Copyright Act in question, *The Journal of World Intellectual Property*, 18 (2015) 150.
 - 28 Singh J P, Evolution of Copyright Law: The Indian journey, *Indian Journal of Law and Technology*, 16 (2020).
 - 29 *India TV Independent News Service Pvt. Ltd. & Ors. v Yashraj Films Pvt. Ltd.*, 53 (2013) PTC 586 (Del); see also Kluwer Copyright Blog, Defense of De Minimis in IP Matters in India, (accessed on 29 June 2025).
 - 30 *Super Cassettes Industries Ltd. v Hamar Television Network Pvt. Ltd.*, 2011 (45) PTC 70 (Del); Lexology, De Minimis Use and Indian Copyright, (accessed on 29 June 2025).
 - 31 *Civic Chandran v. Ammini Amma*, AIR 1996 SC 1846; see also Indian Kanoon (accessed on 29 June 2025).
 - 32 Iplf, 'Copyright Laws and Fair Dealing: Analysing the Ongoing Dispute between Dhanush and Nayanthara' (IPLF, 19th March 2025). <https://www.ipandlegalfilings.com/copyright-laws-and-fair-dealing-analysing-the-ongoing-dispute-between-dhanush-and-nayanthara/> (accessed on 29 June 2025).
 - 33 *Ringgold v Black Entertainment Television, Inc.*, 126 F.3d 70 (2d Cir. 1997).
 - 34 Gadge A, 'De Minimis in Indian Copyright Law' (JusCorpus, 2025). <https://www.juscorpus.com/wp-content/uploads/2025/05/38.-Akanksha-Gadge.pdf> (accessed on 29 June 2025).
 - 35 Scaria A G, Piracy in the Indian film industry: Copyright and cultural consonance (Cambridge University Press 2014) 187-189.
 - 36 *Civic Chandran v Ammini Amma*, AIR 1996 Ker 273 (Supreme Court of India). <https://indiankanoon.org/doc/1913900/> (accessed on 4 September 2025).

- 37 Sengupta S, Algorithmic governance and copyright enforcement on digital platforms: An Indian perspective, *Journal of Intellectual Property Rights*, 26 (5) (2021) 237.
- 38 Beebe B, An empirical study of U.S. Copyright Fair Use Opinions, 1978-2005, *University of Pennsylvania Law Review*, 156 (2007) 549.
- 39 Samuelson, P, Justifications for fair uses, *Wisconsin Law Review*, forthcoming, Available at <http://dx.doi.org/10.2139/ssrn.5118267>(accessed on 29 January 2025).
- 40 Jones D R, Commerciality and fair use, *Wake Forest Intellectual Property Law Journal*, 15 (2015) 621.
- 41 Liu J, An empirical study of transformative use in copyright law, *Stanford Technology Law Review*, 22 (2019) 163.
- 42 Rosati E, Copyright and the Court of Justice of the European Union (Oxford University Press, Incorporated 2024).
- 43 Jacques S, Factors to consider for the application of the parody exception in The Parody Exception in Copyright Law (Oxford University Press 2019) 91, available at <https://academic.oup.com/book/35047/chapter/298936506>.
- 44 Rosati E, Copyright and the Court of Justice of the European Union (Oxford University Press 2019) ISBN 9780191873942.
- 45 Galea M, Inspiration or Infringement? Social media “viral” trends: A case study on Tiktok, *Journal of Intellectual Property Law and Practice*, 19 (2024) 541.
- 46 Jungar E, Streaming video games: Copyright infringement or protected speech?, *Press Start*, 3 (2016) 22.
- 47 Rosati E, Conclusion—Copyright and the CJEU: Role, Action, Legacy’ in Copyright and the Court of Justice of the European Union (Oxford University Press 2023) 371, available at: <https://academic.oup.com/book/35047/chapter/298936506>.
- 48 Arnold R & Rosati E, Are National Courts the addressees of the Infosoc three-step test?, *Journal of Intellectual Property Law & Practice*, 10 (2015) 741.
- 49 Hua J J, Reconstruction of copyright limitations and exceptions in digital network age: Importation of legal flexibility and certainty. In: *Toward a more balanced approach: Rethinking and readjusting copyright systems in the digital network era* (2014), Springer, Berlin, Heidelberg, https://doi.org/10.1007/978-3-662-43517-5_5.
- 50 Rosati E, From the early days of harmonization to the DSM directive 2019/790: Continuity and complexity of the EU Copyright Framework’ (2022).
- 51 Ginsburg J C, Fair Use in the United States: Transformed, Deformed, Reformed? *Singapore Journal of Legal Studies*, (2020) 265.
- 52 Jongsma D, Parody after Deckmyn – A comparative overview of the approach to parody under Copyright Law in Belgium, France, Germany and the Netherlands, *IIC - International Review of Intellectual Property and Competition Law*, 48 (2017) 652.
- 53 Kuczerawy A, From “Notice and Takedown” to “Notice and Stay Down”: Risks and Safeguards for freedom of expression’ in *Oxford Handbook of Online Intermediary Liability* (Oxford University Press 2020) 523.
- 54 Cosen M B, A New Era in the Creator Economy: Addressing Copyright Issues between Creators on YouTube’ (2025) 48. *The Columbia Journal of Law & the Arts* 342.
- 55 Quintais J P, *et al.*, How platforms govern users’ Copyright-Protected Content: Exploring the power of private ordering and its implications, *Computer Law and Security Review*, 48 (2023) 105792, <https://doi.org/10.1016/j.clsr.2023.105792>.
- 56 Graves F and Lee M, The law of YouTubers: The next generation of creators and the legal issues they face, (SSRN 2017). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3012345 (accessed on 29 June 2025).
- 57 Erickson K & Kretschmer M, This video is unavailable: Analyzing copyright takedown of user-generated content on YouTube’, *Journal of Intellectual Property, Information Technology and E-Commerce Law*, 9 (2018) 75.
- 58 Tolcheva S, ‘YouTube Copyright Rules: What Creators Need to Know’ (MakeUseOf, 8 July 2022). <https://www.makeuseof.com/youtube-copyright-rules-for-creators/> (accessed on 30 June 2025).
- 59 Kaye DB and Gray JE, ‘Copyright Gossip: Exploring Copyright Opinions, Theories, and Strategies on YouTube’ (2021) 7 *Social Media + Society* 20563051211036940.
- 60 Casey J, ‘Fair Dealing & YouTube: A guide to copyright exceptions (2025 Updated)’ (Sprintlaw, 24 March 2025) <https://sprintlaw.com.au/articles/fair-use-youtube/> (accessed on 30 June 2025).
- 61 Youtube, ‘Copyright strike basics - Youtube help, (Google, 8 July 2022) <https://support.google.com/youtube/answer/2814000?hl=en> (accessed on 30 June 2025).
- 62 Barden J D, Where’s the Fair Use? Participatory culture, creativity, and copyright on YouTube’ (MINDS@UW Home, 1 May 2018) <https://minds.wisconsin.edu/handle/1793/91611> (accessed on 30 June 2025).
- 63 Ruse-Khan H G, Automated Copyright Enforcement Online: From blocking to monetization of user-generated content, (Digital Commons @ American University Washington College of Law, 2020) <https://digitalcommons.wcl.american.edu/research/51/> (accessed on 30 June 2025).
- 64 Bateman R, Complying with Article 17 of the EU Copyright Directive, (TermsFeed, 16 February 2025) <https://www.termsfeed.com/blog/eu-copyright-directive-article-17/> (accessed on 30 June 2025).
- 65 Hasanovic A, How Can Online Creators with Derivative Creative Works on YouTube Protect Themselves from questionable usage of intellectual property rights?, (LLM dissertation, 2022).
- 66 Jurgens T C, How Does Widespread Copyright Violation, as facilitated by network telecommunications impact upon artistic practice and industry in New Zealand?, (Thesis, Massey University 2016) 1.
- 67 Lanka S N & Garg M, Striking Silence: How Youtube’s Broken Copyright System Threatens Free Speech’ (Internet Freedom Foundation, 17 June 2025) <https://internetfreedom.in/striking-silence-how-youtubes-broken-copyright-system-threatens-free-speech/> (accessed on 30 June 2025).
- 68 Johnson G, The last line of defense: Addressing Section 512(G)’s dwindling capacity to protect educational fair users on the internet, *The Columbia Journal of Law & Arts*, 45 (2022), <https://doi.org/10.52214/jla.v45i2.9167>.
- 69 Dispute a Content Id Claim - Android - Youtube Help (Google, 8 July 2022) <https://support.google.com/youtube/answer/2797454?hl=en&co=GENIE.Platform%3DAndroid> (accessed on 30 June 2025).

- 70 Boroughf B, The Next Great YouTube: Improving Content ID to Foster Creativity, Cooperation, and Fair Compensation, *Albany Law Journal of Science and Technology*, 9th September 2014, 25 (2015) 95.
- 71 Mani S, Why Indian Youtubers are fighting back ANI's copyright claims, (CNBCTV18, 27 May 2025) <https://www.cnbctv18.com/india/why-indian-youtubers-are-fighting-back-anis-copyright-claims-19611031.htm>, (accessed on 30 June 2025).
- 72 Kar A, YouTube Responds to the Story, ANI Finds Business Niche in Copyright Claims against YouTubers, (The Reporters' Collective, 21 May 2025) <https://www.reporters-collective.in/blog/youtube-responds-to-the-story> (accessed on 30 June 2025).
- 73 Rajat Pawar alleges ANI demanded ₹18 lakh for short clip use (NDTV, 28 May 2025) <https://www.ndtv.com/india-news/explained-creators-allege-copyright-strikes-by-ani-extortion-attempt-8526840> (accessed on 30 June 2025).
- 74 Kar A, ANI shares with Court: It has taken up to Rs 45 Lakh from YouTubers (The Reporters' Collective, 24 June 2025) <https://www.reporters-collective.in/trc/ani-shares-with-court-taken-up-to-45-lakh-from-youtubers> (accessed on 30 June 2025).
- 75 Sharma V, Ani versus Mohak Mangal reignites the debate of "Fair Dealing" in copyright infringement, (ET Brand Equity, 28 May 2025) <https://brandequity.economicstimes.indiatimes.com/amp/news/digital/copyright-controversy-anis-striking-policies-vs-youtube-creators-fair-use-rights/121453197> (accessed on 30 June 2025).
- 76 Bindhani M, Sethi M & Roy J, What Indian copyright law says: Mohak Mangal accuses ANI of extortion over YouTube strikes, Urges Government Action, (LawChakra, 26 May 2025) <https://lawchakra.in/legal-updates/copyright-law-mohak-mangal-accuses-ani/> (accessed on 30 June 2025).