



## Recognition to Implementation: Bridging the Gap in Moral Rights Protection under Indian Copyright Law

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Intellectual Property Rights have reflected itself as a new developing dimension in the legal field, and its development aims to address the challenges related to Intellectual property. Moral rights are the legal recognition of the moral aspect of intellectual property law, which remains with the author even after transferring or assigning the legal rights to someone else. In India, moral rights got their recognition under the Copyrights Rights Act of 1957. The present paper discusses the effectiveness of the law in this regard and examines the available legal framework of Indian intellectual property laws. It also attempts to understand the role of the judiciary in strengthening and preserving the moral aspect of law concerning copyright law. The study forms its basis by analysing the existing legal framework and intervention of the judiciary in this regard. The methods used in this regard are analytical and doctrinal. Moral rights are reflected as the personality of the author. In this paper, we found that there are various aspects and challenges that require attention at both the judiciary and legislature levels. Moral rights are a significant aspect of copyright, but no more consideration was given to the question of moral rights. The moral foundations of copyright have been explored via a variety of illuminating case laws and international treaties under different jurisdictions. As it is depicted as a part of the intellectual property rights law, its complete segregation is impossible. Also, much remains to be done to cope with the development of the moral rights law.

**Keywords:** Copyright Law, Moral Rights, Author's Rights, Indian Legal System, Dualism and Monism Models, Dispute Resolution

Copyright grants are used to incentivize authors to create and distribute their works for the public's benefit. They grant exclusive rights over their work, fostering artistic creativity and increasing the availability of art. The creator's personal connection to their work is protected by moral rights in copyright law, which enables them to manage credit, avoid distortion, and preserve their reputation. In addition to economic rights, these rights guarantee that artists be acknowledged and shielded against unapproved changes.<sup>1</sup>

The Berne Convention acknowledges moral rights as the personal rights of an author or creator of a work. Originating in France and Germany in the 19th century, moral rights were later recognized in India in 1928. Article 6bis of the Berne Convention states that an author has the right to claim authorship of their work and object to any distortion, modification, or mutilation that would be prejudicial to their interests.

Indian courts uphold moral rights protections, promote individual creative efforts and non-commercial artistic endeavours, and focus on interpreting and developing moral rights doctrine in Indian context. The Berne Convention requires member nations to recognize the moral rights of attribution and integrity as defined in the treaty's Article 6bis. It requires member nations to recognize the right of an author to claim authorship and the right of the author to protect the integrity of a work. In the USA, for instance, directors and screenwriters receive little solace from copyright laws' numerous protections as copyright primarily benefits the copyright owner. Lacking the means to preserve and protect the artistic integrity of a film, filmmakers have sought and continue to seek moral rights protection for motion pictures. Filmmakers have had to rely on their power within the industry, which depends mainly on the commercial success of their films, to obtain some measure of protection for the artistic integrity of their work. Legislative action

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would provide the most effective means for filmmakers to protect the artistic integrity of their films.<sup>2</sup>

A steady, progressive, and author-friendly regime for moral rights has developed as a result of the Indian Copyright Act of 1957. It is founded on India's responsibilities under international copyright agreements as well as native cultural viewpoints. Indian courts respect writers' moral rights; they also acknowledge their personal, social, and cultural rights and take into account any new advancements in technology that may impact writers' moral rights.

In India, moral rights are protected by Section 57 of the Copyright Act, 1957, which states that an author has the right to claim authorship and restrain or claim damages concerning any distortion, mutilation, modification, or other Act that would be prejudicial to their honour or reputation.<sup>3</sup> Indian courts have interpreted and applied Section 57 in landmark cases, such as *Amarnath Sehgal v Union of India*<sup>4</sup>, *Mannu Bhandari v Kala Vikas Pictures Ltd.*<sup>5</sup>, and *Phoolan Devi v Shekar Kapoor*<sup>6</sup>, establishing principles and precedents for the protection and enforcement of moral rights in India.

The Indian moral rights regime identifies the moral rights of authors as absolute, perpetual, inalienable, imprescriptible, non-assignable, non-transferable and non-waivable, while performers' moral rights are limited to 50 years from the year following the performance. The similarity between the language of moral rights provision in the Act and the relevant provisions under the Berne Convention and the 'WIPO Internet Treaties', namely the WIPO Copyright Treaty 1996 and the WIPO Performances and Phonograms Treaty 1996, is apparent and discernible. India's moral rights regime is akin to the dualistic French system in treating the duration of moral rights as perpetual rights.<sup>7</sup>

### **India's Adoption of Copyright Legislation**

The Indian Copyright Act of 1847, enacted by the British colonial authority in India, granted exclusive rights to authors for their unique creative creations. This Act was a complete duplication of the English Copyright Act of 1842, which introduced copyright protection only for books and not for any other works.<sup>8</sup> The Copyright Act, 1914 replaced the previous Act, offering exclusive economic rights to authors of literary works. The Act, despite some local-specific provisions, incorporated all significant provisions of the UK Copyright Act, 1911. The

original UK Copyright Act of 1911 did not incorporate the French legal notion of moral rights for authors, which was not embraced by British rulers until the 1928 Berne Convention.

### **Establishment of a Moral Rights Framework in India**

The copyright regime in India is governed by the Copyright Act of 1957, which defines various categories of works eligible for protection, including literary, artistic, musical, and cinematographic works. This legislation introduced the moral rights regime under Article 6bis of the Berne Convention, recognizing them as an 'author's special right.'<sup>9</sup> The aim is to emphasize the significance of artistic genius in determining the maturity and vitality of any culture while also safeguarding social interest. The Act's moral rights framework has been dynamic, shifting between the dualism and monism models throughout time.<sup>10</sup> The original Act granted economic rights temporary protection, while moral rights were granted perpetual protection.<sup>6</sup> The moral rights regime in India saw its second significant evolution in 1994; the Copyright (Amendment) Act of 1994 established a framework for protecting moral rights, recognizing them as distinct from economic rights. It granted authors the right to claim authorship of their works and object to any distortion, modification, or mutilation that could harm their reputation or honour. This Act aligned with international standards and strengthened India's commitment to upholding authors' rights. The Act has been amended to align with the Berne Convention, allowing for the right to restrain or seek damages for infringement of the right of integrity only in cases where the author's work harms their reputation.<sup>11</sup>

### **Recent Modifications Law to the Moral Rights**

The Copyright (Amendment) Act 2012 marked a significant change in India's moral rights regime.<sup>12</sup> In 2012, the concept of perpetual rights for moral rights was reintroduced, introducing a dualistic model for economic and moral rights due to threats in online and digital networks. The concept of the perpetual term of moral rights was reintroduced, resembling dualistic French copyright law. The Copyright (Amendment) Act 2012 introduces moral rights for performers, in line with the WIPO Performers and Phonograms Treaty 1996 and the Beijing Treaty on Audio-visual Performances 2012.<sup>13</sup> The performers have a 50-year moral right, which is a special right equal to that of

the writers, beginning on the first day of the calendar year that follows the year the performance was made. Similar to writers' special rights, a performer's moral rights are independent of the assignment of their economic rights in performance, either fully or partially.<sup>14</sup> Additionally, this protects the performances of well-known folklore singers or groups.

### **Characteristics and Application of Moral Rights**

India's moral rights regime includes two internationally recognized rights: the right to paternity or attribution and the right to integrity, both in accordance with the Berne Convention provisions.<sup>15</sup> The protection of intellectual property rights is essential for fostering innovation and creativity. The integrity and dignity of artists are safeguarded by moral rights, especially those enshrined in the Berne Convention. Moral rights, which are protected by Article 6bis of the Paris Act of 1971, uphold the relationship between artists and their works. The author has a moral obligation to nurture, preserve, and safeguard their creativity while upholding the calibre of their output. Like copyright, these rights are not a single right but rather a group of related rights. The two primary rights that the Copyright Act protects are covered in the following sections.<sup>16</sup>

#### **Right to Paternity**

According to Sec. 57(1) (a) of the Act, the creator of a work has the right to assert authorship over it and to determine whether or not their name is attached to it for publicity or promotional purposes. Plagiarism and false credit for work not produced by the author are avoided by this safeguard. In accordance with their right to paternity, the author is likewise entitled to credit for their creative output. The author has the right to sue the people who created a movie based on their book if they fail to provide due credit to them for their contributions. When two or more writers collaborate on a piece of writing, each author has equal moral rights within the work, guaranteeing that each author's contribution is given equal weight.<sup>17</sup> Every author has moral rights when their work is part of a collective comprising distinct works. Since every work is unique, the government may also assert moral rights on behalf of authors of orphaned works where it serves the public interest.<sup>18</sup> The blueprint and design of a building are owned by the creator, who also grants the building owner permission to build using the design.

Nevertheless, the author's claim to paternity or attribution is frequently ignored by the contract. By placing their names inscribed on structures constructed using their plans and ideas, only a select group of well-known architects are able to claim authorship.<sup>19</sup> Singers or groups singing folklore might assert their right to be recognized as the performers of their performance under the Act's moral rights framework.<sup>10</sup>

#### **Right to Integrity**

The Copyright Act's Section 57(1) (b) gives artists the right to demand damages or a restraint on any action that might harm their honour or reputation. Computer programs, computer-generated content, works used to report current events, and works published in reference books are not covered by this right. The language makes it clear that the conduct must harm the author's reputation in order for protection to be provided. Films that are dramatic, musical, creative, literary, or cinematographic are all subject to moral rights, and Sec. 57 does not rely on the argument that alterations made to an author's work enhance it. Copyright protection requires the ability to safeguard an artist's reputation.<sup>16</sup> According to the text, the author of a work has the right to sue for damages for any conduct that, if it were to be misrepresented, altered, or changed, would bring disgrace or dishonour upon the author.<sup>20</sup> The Act only allows for the production of a "remix or cover version" up to five years following the release of the original sound recording.<sup>21</sup> As per the Act's rules on statutory licenses for cover versions, the person who creates a remix or cover version is required to notify the copyright owner of the original sound recording.<sup>22</sup> Any literary or musical work that has not been altered before with the owner's permission or that is not technically required for the recording's purpose may not be altered by the person making sound recordings.<sup>23</sup> Regardless of whether they are entirely or partially given economic rights, artists are entitled to the right to integrity under the Act.<sup>24</sup>

#### **Rights to Disclosure, Right to Retraction and Right to Access**

The 'right to disclosure' is not included in the Indian moral rights framework officially, but it is covered implicitly when an author discloses their work to a publisher with the intention of granting authorization for publishing, distribution and under the author's economic right to give copies to the

public.<sup>6</sup> The Act's moral rights framework does not grant an author the "right of retraction or withdrawal" of their work. In the interest of the public good or to maintain peace and order, the Indian government may, nonetheless, remove any work in accordance with the *Bhartiya Nagarik Suraksha Sanhita, 2023*.<sup>25</sup> It may seek the forfeiture of copies of books that contravene section 197 of the *Bharatiya Nyaya Sanhita, 2023 (BNS)*.<sup>26</sup> The Government can also prohibit importation or exportation of books under Section 11 of the *Customs Act 1962*. The 'right to access' is not stated in the Act expressly, but as moral rights are acknowledged as unique rights akin to fundamental rights, writers are permitted to access their creative work, including paintings, sculptures, and architectural designs, for the sake of replication or adaptation.<sup>27</sup> Suppose a piece of creative handicraft, such as a painting, drawing, engraving, or picture of a sculpture, is permanently positioned in a public space or on an accessible property. In that case, the creator has the same rights as the general public to visit it.<sup>28</sup>

### Foreign Works and Moral Rights

In accordance with international agreements such as the *Berne Convention*, the Act safeguards copyright for works by non-national writers that are initially published abroad. Nonetheless, non-nationals are guaranteed national treatment under India's permanent moral rights, provided that a comparable system is in place in the author's home country.

### Period of Moral Rights in India

Following the 'dualistic' French copyright law, the French moral rights regime (adopted in 1957) created the idea of everlasting duration for the rights to paternity and integrity. In order to protect cultural creative expressions that are unique to each author and creator, the *Copyright (Amendment) Act of 1994* eliminated the dualistic policy of protecting moral rights and economic rights. This resulted in the perpetual protection of moral rights and limited protection of economic rights. The lifespan of the author's economic rights and moral rights are coterminous under this approach. The preservation of writers' moral rights in India has been undermined by the Indian regime of moral rights, which imposed the monist concept of duration and equated economic with moral rights. The goal of the policy decision was to assist the economic interests of copyright owners by aligning the right to integrity provision with the

monistic co-terminus model of copyright protection in common law nations. It was inspired by WTO trade discussions, namely the *TRIPS Agreement*. More vital protection for author moral rights in the digital sphere was provided by the *Copyright (Amendment) Act of 2012*, which brought back the French model of permanent moral rights for the right to integrity. The protection period was the author's lifetime plus 60 years prior to this alteration, which was the same as the copyright term for their economic rights. Perpetual moral rights were also provided for the performer in this 2012 Amendment.

### Exemptions from Moral Obligations

In the service of the general good, the Indian moral rights framework allows for specific exceptions to moral rights. While the Act does not explicitly provide writers an exemption to their paternity rights, it does permit an exception to be made in order to be recognized as a performer where the method of the performance requires omission.<sup>29</sup> With the exception of the right to integrity, a casual or incidental performer in a cinematographic work who is not recognized in the credits is not regarded as a performer.<sup>30</sup> If a lawful processor modifies a computer program for its original purpose or to temporarily safeguard it against loss, destruction, or damage, the Act provides a fair dealing exemption to the author's right to integrity, so long as the program is only used for that purpose.<sup>31</sup> The open-source software movement and the expansion of the Indian software industry both benefit from the copyright exemption that permits software re-engineering. It also fosters innovation in the IT sector. When a building or structure is rebuilt using the original architectural drawings or plans, as per the initial construction, the Act provides a copyright exemption.<sup>32</sup> The government should not stop development that is in the public interest and desperately needed for trade and commerce, but the owner of a building who invested in its creation based on an architectural plan and design has the right to reconstruct or demolish the work of architecture.<sup>33</sup> The Act's section outlining the moral rights framework makes no mention of an architect's ability to sue for damages for breach of their right to integrity. Because the Act states that removing a section of performance for technical, editing, or recording reasons does not constitute a derogatory action against the reputation of the artist, it permits an exemption to the performer's right to integrity.<sup>34</sup>

### **Protections against Violations of Moral Rights**

Authors and performers can pursue civil and criminal remedies under India's moral rights law for any infringement of their rights, including anonymous and pseudonymous works. The legal representatives of writers are free to act honourably in all of their works—even ones published after their deaths—but not in those of paternity or credit. According to the rules of the Berne Convention, writers must exhibit prejudice to their honour or reputation in order to assert their moral rights. To protect writers' integrity and dignity, moral rights are an essential component of intellectual property law in India. These rights protect their reputation, independence, and creative personality in addition to merely being the owners of the work. These rights are principally protected by the Copyright Act of 1957, which was modified in 2012 and permits writers to assert authorship while prohibiting any alteration, mutilation, or distortion that would be detrimental to their honour or reputation. This commitment is further supported by India's ratification of international treaties, including the Universal Declaration of Human Rights and the Berne Convention. By bringing intellectual property rules from different countries into harmony, these accords support individual innovation, creative expression, and cultural diversity. In India, there are several different ways to address violations of moral rights, including via the use of practical tactics and legal action. Authors may use legal remedies, including injunctions, damages, and specific performance, to ask the court to become involved. Alternative conflict resolution procedures like mediation and arbitration provide quick and affordable resolutions for moral rights infringement cases. Through legal tools like licensing agreements and moral rights provisions, creators may also protect their moral rights. Promoting a culture of respect for moral rights among stakeholders—creators, users, and the general public—requires the implementation of advocacy projects, instructional efforts, and awareness campaigns. In the face of unlawful modifications, misrepresentations, or attributions of their works, Indian artists' moral rights are protected under the Copyright Act of 1957, which provides both civil and criminal remedies.

### **Civil Remedies**

#### *Injunctions*

Authors can seek injunctive relief under Section 55 of the Copyright Act to restrain any infringement of their moral rights. This remedy prevents further harm

to their reputation and artistic integrity by halting the unauthorized use or modification of their works, thus preserving their artistic integrity.

#### *Damages*

Authors can seek monetary compensation for moral rights violations under Section 58 of the Copyright Act, which takes into account things including the degree of infringement, reputational damage, and financial harm from unapproved use or modification of their works.

#### *Specific Performance*

In order to enforce remedial measures and restore the integrity and attribution of the work, writers may also pursue particular performance as a remedy. To address the harm caused by the infringement, this remedy may include actions like making public apologies, correcting misattributions, or returning the work to its original form.

### **Criminal Remedies**

#### *Imprisonment and Fine*

The Copyright Act stipulates that intentional and willful violations of moral rights may result in jail time and fines, as well as other criminal penalties. According to Section 63 of the Act, anyone who is found guilty of willfully violating someone else's moral rights may face penalties and imprisonment for a minimum of six months and a maximum of three years. These criminal penalties highlight the gravity with which such infringements are regarded under Indian law and act as a deterrence against extreme abuses of moral rights.

### **Alternative Dispute Resolution**

#### *Mediation and Arbitration*

Authors can settle conflicts resulting from infringement of moral rights more quickly and amicably by using alternative dispute resolution procedures like mediation and arbitration. Through the use of these procedures, parties can have productive conversations, consider original ideas, and come to a mutually agreeable conclusion outside of the official legal system. Mediation and arbitration can assist in reducing the time, expense, and uncertainty that come with traditional litigation by encouraging cooperation and compromise.

### **Judicial Response Concerning Moral Rights**

The judicial system of the Indian judiciary has always been devoted to the protection of fundamental

moral values, creative works, and other intellectual creations of one's mind. Because such creations and works are nothing but part of the creator's existence, if a person who is an inventor, creator, composer, writer, singer, choreographer or some other kind of intellectual person does not get proper recognition of his work by some other user of his work or art then in such cases moral rights of that person may be infringed.

Indian Courts have taken proper consideration to recognise all the required measures of protection. The following are the landmark Judgements of the Supreme Court in this regard.

*Amar Nath Sehgal v Union of India (2005)*

The Court termed moral rights to be the soul of the author's works. "The author has a right to preserve, protect and nurture his creations through his moral rights. A creative individual is uniquely invested with the power and mystique of original genius, creating a privileged relationship between a creative author and his work." The Court clarified the moral rights derived from literary and artistic creations. These include the right to identity or attribution, the right to distribution, the right to integrity, which protects the objectivity of the work, and the right to remove the work from publication. The legal protection of India's cultural legacy through the artist's moral rights is made feasible by the wording of Section 57. "Knowledge and intellectual property are related. Traditional knowledge and thinking are embodied with value added by intellectual property. Thus, there are significant societal repercussions when intellectual property is lost or physically destroyed. Along with it, knowledge that has expanded is also lost." The court decided that moral rights in an artistic creation become part of the cultural heritage of the country. Given that the country and India have ratified several agreements, the state must safeguard such works. The plaintiff, notwithstanding the defendants' copyright in the mural, is entitled to pursue legal action under Section 57 of the Copyright Act, 1957, the court decided. It was determined that they had infringed upon both the plaintiff's moral rights and the country's cultural heritage. The defendants were mandated by the court to pay fees and damages in addition to permanently returning the painting.

*Effect of the Judgement*

Two fundamental principles of moral rights in India were established by the Delhi High Court's 1992 ruling: the government has a responsibility of care to

preserve artworks under its custody, and the moral right of integrity can shield a creative creation from complete destruction. As a result, the Copyright Act was modified in 1994 with the intention of harmonizing the Indian Act with the Berne Convention. It was made clear that displaying a work in accordance with the author's desires or not displaying it at all is not a breach of moral rights by the updated Section 57 of the Copyright Act, which is in line with Article 6bis of the Berne Convention. The final verdict would be governed by the previous regulations about the time of destruction and court filing, therefore, Justice Nandrajog had to decide whether the pre-amended or post-amended Copyright Act would apply. Given that India is a member of several international treaties, Justice Nandrajog contended that the law should be enforced to preserve the country's cultural legacy. He maintained that the contested piece of art was an "outstanding work of art" and that no matter how the law is interpreted, it must be preserved in its original form.<sup>35</sup>

*Mannu Bhandari v Kala Vikas Motion Pictures Ltd.*

*Mannu Bhandari v Kala Vikas Pictures Pvt. Ltd. And Anr* On 8 August 1986. This is one of the famous cases in the field of copyright law in India. It was the first time the Higher Indian Judicial system delivered a clear decision about moral rights and discussed its ambit and scope. Renowned Hindi author Mannu Bhandari was not pleased with how her work was handled in a film adaptation of her book *Aap Ka Bunt*. She requested a perpetual injunction to prevent the film from being shown and shown. The parties requested that the court deliver its verdict even though they had already reached a settlement since the higher courts in India had not yet provided clarification on the extent of moral rights protection. If the skewed version of her manuscript was shown in the film, the complainant feared it would damage her reputation. The court explained that the author has a unique position beyond the financial benefits of copyright under Section 57 of the Copyright Act, 1957, which addresses the protection of moral rights in India. Literary reproduction is not the only situation in which an author may be able to prevent their work from being distorted; in fact, orders of restraint may be issued even in situations where a novel forms the basis for a film. Section 57 encompasses both visual and auditory expressions because of its expansive phrasing. The fact that remedies of a restraining order or damages can be obtained "even after the

assignment either wholly or partially of the said copyright" highlights the unique protection afforded to the author under Indian copyright law. The defendant was ordered by the court to make specific changes and changes in the film before releasing it, but the court did not uphold its decisions since the parties came to an agreement before the verdict was delivered.<sup>36</sup>

***Phoolan Devi v Shekhar Kapoor***

In this case, the plaintiff obtained a restraining order prohibiting the defendant from showing, selling, promoting, advertising, or making the movie "Bandit Queen" because the plaintiff claimed the film producer had altered the plaintiff's book. Given that the video breached the plaintiff's privacy and caused humiliation, suffering, and guilt, the Delhi High Court issued an injunction, ruling that the defendant was not permitted to screen the picture. It was ordered that the defendants not screen the movie until the completion of the case. Prior to 1994, the Copyright Act recognised moral rights as unalienable, which is consistent with the viewpoint found in French law. The 1994 modification, on the other hand, modified Section 57 (1) to characterise distortion and mutilation of the work of authorship with a negative impact on the honour and reputation of the author in an effort to bring the legal framework into compliance with the Berne Convention.<sup>37</sup>

***Najma Heptulla v Orient Longman Ltd.***

The contention emerged when Najma Heptulla, the grand-niece of Maulana Abul Kalam Azad, asserted that Orient Longman Ltd. had made unlawful alterations to a book she prepared from Azad's speeches and writings. She contended that these modifications compromised the integrity of the original work and infringed upon her moral rights as stipulated in Section 57 of the Indian Copyright Act, 1957. The central issue before the court was whether a compiler or editor may assert moral rights over a work drawn from another author's writings. The Delhi High Court adjudicated in favour of Heptulla, saying that moral rights are not confined to the original author but may also encompass individuals who have curated, edited, or collated substantial historical and literary works. The court underscored that moral rights encompass both the right of attribution and the right of integrity, indicating that any alteration or distortion that misrepresents the original intent of the author or compiler is a breach of copyright law. The court mandated the publisher to halt improper

alterations and reinstate the book's integrity. This verdict was crucial as it set a precedent in Indian copyright law, affirming that moral rights transcend economic rights and that those who compile or edit substantial literary works have the right to protect its integrity from distortion or misrepresentation.<sup>38</sup>

***Academy of General Education v Malini Mallya***

The Supreme Court addressed a controversy over the biography of a prominent public person. Malini Mallya, the legal heir of the biographical subject, contested specific interpretations and alterations made by the publisher, Academy of General Education, asserting that they corrupted historical facts and misrepresented the individual's life and legacy. She asserted that these alterations not only deceived readers but also compromised the dignity and prestige of her family. The case presented a significant legal issue—whether moral rights, specifically the right of integrity, may be bequeathed to the legal successors of the individual depicted in a biography. The Supreme Court acknowledged that when a biographical or historical narrative is modified in a manner that distorts facts or misrepresents a prominent person, their legal successors may assert moral rights to safeguard their legacy. The court determined that the integrity of historical and biographical works is essential, and unlawful alterations that distort or misrepresent facts may be contested under copyright law. The publisher was instructed to implement essential revisions to guarantee historical truth and avert additional distortions in future editions. This ruling was a pivotal case as it broadened moral rights beyond the author, permitting legal successors to contest inaccuracies in factual or historical accounts. It reaffirmed the idea that, although freedom of expression is safeguarded, it does not encompass illegal alterations or fabrications of an individual's life narrative, thus ensuring that biographical works adhere to historical accuracy.<sup>39</sup>

***Raj Rewal v Union of India & Ors.***

The author of the Hall of Nations' moral rights was at stake in this lawsuit. Requests were made to the plaintiff to produce the same in order to honour cultural advancement on India's 25th Independence Day, i.e., in 1970. Concrete was used to build the space frame and the surrounding anchoring walls and roof of the Hall of Nations. This place is recognized as a cultural heritage site. In 2017, the Hall of Nations was regrettably demolished to create room for a new building. The plaintiff made many unsuccessful

submissions and appeals to the authorities. Following the destruction of his work, the plaintiff sued the defendants in the Delhi High Court, requesting damages. In this particular case, the question of whether the author's moral rights should take precedence over the copyright holder's property rights emerges. Additionally, was the author still entitled to moral rights even if the defendant was the real owner of the structure? The court decided that the author's moral rights and ITPO's constitutionally protected property rights conflicted because the building belonged to the Union. The petitioner has moral rights that are safeguarded by virtue of his status as the creator of a work that is protected by copyright. Nevertheless, the Indian Constitution, which serves as the cornerstone of all Indian laws, cannot be compared to the Copyright Act or another piece of legislation. Therefore, the defendant's constitutionally protected property rights and moral rights are conflicting. The court's decision highlighted the necessity of striking a balance between development plans and the protection of artistic and cultural legacies. The court's ruling brought attention to the duty to take into account and respect the moral rights of artists, particularly in the fields of architecture and public infrastructure, even though the government had plans for reconstruction.<sup>40</sup>

### Conclusion

Moral rights are the expression of the personality of an author, which is equal to the soul of the author. Moral rights are shaped and strengthened by the judiciary and legislature in India. Moral rights are about more than just making a living; they are a reflection of the author's character as well as the quality and reputation of their work. They establish a bond between the inventor and the product of their intellectual or artistic work. These rights are safeguarded under Indian Copyright Law, Section 57, which is based on the Berne Convention. The defence of moral rights has, nonetheless, evolved to take into account problems with the rapidly evolving digital landscape. The amendment emphasizes the significance of moral rights in copyright while being limiting and limited in author remedies. Moral rights are recognized in many nations; however, enforcement practices differ. The UDHR and ICESCR acknowledge the author's rights as inherent rights. Moral rights should get more attention because of their unique qualities and significance in preserving cultural heritage.

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- 26 Section 197 of the Bhartiya Nyaya Sanhita, 2023 (BNS): ‘Whoever, by words either spoken or written or by signs or by visible representations or otherwise, asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India.’
- 27 The Copyright Act 1957, Section 52(1) (s), (14 of 1957).
- 28 The Copyright Act 1957, Section 52(1) (t), (14 of 1957).
- 29 The Copyright Act 1957, Section 38B, (14 of 1957).
- 30 The Copyright Act 1957, Section 38B (b), (14 of 1957).

- 31 The Copyright Act 1957, Sections 57(1) and 52(1) (aa), (14 of 1957).
- 32 The Copyright Act 1957, Section 52(1) (x), (14 of 1957).
- 33 *Braithwaite, Burn and Jessop Construction Co v Trustees of the Port of Madras* (1956) 2 MLJ 486.
- 34 The Copyright Act 1957, explanation to Section 38B, (14 of 1957).
- 35 *Amar Nath Sehgal v Union of India (UOI) and Anr.* 117 (2005) DLT7 17.
- 36 *Mannu Bhandari v Kala Vikas Pictures Pvt. Ltd. And Anr.* AIR 1987 DELHI 13.
- 37 *Phoolan Devi v Shekhar Kapoor*, AIR 1995 Delhi 316.
- 38 *Najma Heptulla v Orient Longman Ltd.*, AIR 1989 Delhi 63.
- 39 *Academy of General Education v Malini Mallya*, (2009) 4 SCC 256.
- 40 *Raj Rewal v Union of India & Ors*, AIR Online 2019 DEL 911.