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ONLINE PIRACY AND ARTISTIC WORKS: ANALYSING INDIA'S COPYRIGHT FRAMEWORK IN THE DIGITAL AGE

Manisha Nath¹ & Dr. Bhavna Batra²

I. ABSTRACT

The high growth rate of the digital technology has changed the way artwork is created, distributed and consumed in India. Although digital platforms have improved the accessibility and visibility of artists, they have also intensified the menace of online piracy. Photos, paintings, films, music and digital art, like other artistic works, are now easily replicated, distributed and misused without permission, resulting in significant financial loss and moral harm to artists. In this paper, the author discusses the nature of online piracy affecting artistic works and critically evaluates the suitability of the copyright system in India to meet the challenges of the digitalized world. The paper examines the boundaries of protection offered under the Copyright Act 1957 with specific reference to the rights of the copyright holders, the notion of infringement and the intermediaries. It considers the application of traditional principles of copyright to digital setting and points out the shortcomings that are presented by the technological complexity, anonymity of the violators and jurisdiction concerns. The judicial responses to online piracy are analyzed to see how the courts have tried to reconcile between the copyright owner interests and the freedom of speech and access to information. The rising adoption of website blocking injunctions and intermediary liability are indicators of an ever-expanding judicial acknowledgment of web piracy as a structural and not discrete crime. The effect of comparative legal approaches as well as international commitments of India through the world copyright treaties is also discussed in the paper. It draws out the conclusion that although the copyright system of India has been slowly adapting to the digital reality due to the changes in the copyright statutes and the creative use of the judicial process, the gaps in the enforcement quality and the reaction to the technological environment still exist. The research highlights the necessity to provide a more articulate statutory regulation, enhanced institutional structures and enhanced enlightenment to facilitate a successful and equitable safeguarding of artistic

¹ LLM (IPR)/1year/2nd semester Student at Amity University Noida (India). Email: manishanath71@gmail.com

² Assistant Professor of Law at Amity University Noida (India). (India). Email: bbatra@amity.edu

creations in the digital age.

II. KEYWORDS

Digital platforms, India, online piracy, artistic works, copyright law.

III. INTRODUCTION

The development of the digital ecosystem has dramatically transformed the sphere of artistic creation and distribution. Artistic works like films, music, literary materials, photographs and digital art now have no physical or territorial limits. Although this has increased the availability and democratized creativity, it has also heightened the problem of online piracy. The issue of unauthorized copying, distribution, and sharing of artistic content via websites, peer to peer networks, torrent service, and social media has become extremely worrying in India. This has brought great economic and moral issues to artists and the creative industry in general.

The copyright system used in India, which is mainly governed by the Copyright Act, 1957, was initially aimed at safeguarding the creative work in a predominantly analog world. Despite the fact that the Act has been subjected to a number of amendments, the latest being in 2012 to suit the digital realities and the international requirements, it still raises questions whether it is effective in addressing the new forms of online piracy. The digital era has erased the old-fashioned lines between primary and secondary violators, which have raised enforcement issues regarding the jurisdiction, anonymity and technological complexity of piracy networks.

The judicial intervention has been instrumental in determining how India deals with online piracy. The various courts have tried to strike a balance between the rights of the copyright holders and freedom of expression and access to information and that is evident in the case of *Super Cassettes Industries Ltd. v. MySpace Inc.* and *UTV Software Communication Ltd. v. 1337X.to*. These cases indicate that there is an increasing judicial awareness of the necessity to combat digital infringement alongside enforcing proportionality and due process. Meanwhile, the international copyright tools such as the Berne Convention and WIPO Copyright Treaty place

pressure on the domestic legislation of India to ensure the standard of protection is sufficient. Online piracy is a very complicated issue involving statutory law and judicial interpretation as well as technological change. This paper aims to discuss whether the current copyright system in India can adequately respond to the dynamic character of the digital piracy, particularly in relation to the artistic creations, and whether the current enforcement systems can respond to the needs and interests of creators in a digital era.

A. Research Objectives

1. The main aim of this study is to observe the degree to which the copyright system in India has incorporated the illegality of the online piracy of artistic contents in the cyberspace.
2. The proposed study is to examine the viability of the statutory provisions in the Copyright Act, 1957 in addressing the issue of digital infringement. It also aims at determining how Indian judiciary is contributing towards the protection of copyright against online piracy by interpretation and implementation.
3. The other goal is to assess the adherence of India to the international copyright standards.
4. The study aims at identifying the gaps that may exist and coming up with balanced reforms that will safeguard the rights of artists and still allow digital innovation to take place.

B. Research Questions

The following are the questions that guide this research.

1. Does the copyright law of India cope with the problem of online piracy of artistic works in the digital age?
2. How do Indian courts influence the legal reaction to the breach of digital copyright?
3. How does the statutory framework interrelate with the intermediary

liability in the Indian law?

4. How much does the copyright regime in India comply with the international copyright commitments in combating online piracy?
5. Which legal and policy changes will be required to better protect artistic works and still have access to digital content and technological advancement?

C. Research Methodology

The research methodology in this paper is a doctrinal and analytical one. The major sources are provisions contained in the copyright Act, 1957, the information technology act, 2000, and the applicable rules and notifications. The decisions of Indian courts are a major element of analysis. It also relies on secondary sources like books, journal articles, research papers, and reports that are made by international organizations. International copyright treaties and foreign jurisprudence that are relevant are compared. The study is a qualitative one that is not based on empirical evidence but on critical interpretation of law.

D. Literature Review

The current body of literature about online piracy in India demonstrates that there is still a gap between the law and the reality of piracy protection. Researchers like Shamnad Basheer and P. Narayanan have highlighted that although the Copyright Act appreciates the rights of the digital world, this has not been enforced because of technological obstacles and institutional capability. Research on intermediary liability is concerned with the conflict between safe harbour clauses in the Information Technology Act, 2000, and the enforcement of the copyright laws. International literature regards the approach as that of stricter regimes in the US and the EU and usually makes the conclusion that the framework in India is reactive.¹⁶ Yet, there are few studies that specifically combine works of art with the changing trends of judicial system in India.

IV. THEORETICAL KNOWLEDGE REGARDING PIRACY ON THE INTERNET AND INTELLECTUAL PROPERTY

Online piracy is defined as unauthorized copying, distribution, communication and delivering of copyrighted materials online in terms of the copyright law. Online piracy is also based on the internet unlike traditional modes of piracy which deals with physical replicas that means that pirated material can be distributed in huge numbers and in real time. The definition of artistic works as stipulated in the Copyright Act, 1957 under Section 2(c), covers paintings, sculptures, drawings, engravings, photographs, architectural works and works of artistic craftsmanship. This definition is applied in the digital world to digitised and born-digital artistic works, and thus they are especially susceptible to infringement over the internet.

The problem with online piracy is conceptual because it is not limited to the border. Through digital platforms, artistic works can be duplicated and shared across borders in violation of the wishes of copyright owners. The unlawful downloading, streaming, peer-to-peer file sharing, and unauthorized uploads of the same on social media platforms are direct violations of the exclusive right that is provided in Section 14 of the Copyright Act.¹⁹ These rights encompass reproduction, right to communicate to the populace and right to adaptation, which are often infringed in digital platforms. In contrast to the concept of physical piracy, online piracy frequently includes various parties, such as uploaders, web hosts, users and intermediaries, which makes it difficult to determine who is liable.

The digital ecosystem presents unique weaknesses to artistic works. Artistic works can be reproduced with a low loss of quality due to the use of high-resolution scanning, screen capturing, and digital editing tools. Social media sites like picture-sharing sites, video-hosting platforms, and non-fungible token exchanges have also made the boundary between fair usage and infringement even less clear. It is easy to duplicate artistic works in comparison with their creation, which requires much hard work and creativity, thus causing a lot of economic and moral damage to artists. This unfairness begs some of the most fundamental questions of equity and sustainability in the creative economy.

In legal terms online piracy can be divided into primary and secondary infringement. Primary infringement is direct unwarranted activities by users including the posting

of pirated materials. The secondary infringement, which is covered in Section 51 of the Copyright Act, is the case whereby the intermediaries are aware of what they are doing which aspect is facilitating the infringement. The electronic environment has broadened the area of secondary liability particularly in terms of internet service providers, hosting sites and search engines.

Table 1: Forms of Online Piracy Affecting Artistic Works

Form of Piracy	Description	Impact on Artists
Illegal Downloading	Unauthorized downloading of artistic content	Revenue loss and rights dilution
Streaming Piracy	Real-time unauthorized access via websites	Loss of licensing income
Social Media Sharing	Uploading artworks without permission	Attribution and moral rights violation
Website Scraping	Automated copying of visual content	Mass infringement and commercial misuse

The issue of conceptualization of piracy has also been affected by technological progress. Virtual private networks, encryption and anonymous hosting services are some of the tools that allow infringers to escape justice and prosecution. Consequently, online piracy tends to exist somewhere in a grey area in which the person who engages in it is more challenging to identify than infringement as such. This has seen a change in the enforcement method to emphasize more in barring access to the infringing sites instead of prosecuting the persons using it.

On a conceptual level, online piracy is also ethically and socially questionable. Digital content is seen by a large number of users as a free resource, and in many cases, the legal and ethical aspects of their infringement are not thought of. This

impression negatively affects respect for intellectual property and the cultural worth of artistic labour. The law should thus go beyond enforcement to include awareness and normative behaviour on the digital space. To conclude, online piracy as the issue concerning artistic works is a complex interaction of the law, technology and user behaviour. It criticizes the conventional copyright beliefs of control, ownership and territoriality.

V. INDIA'S STATUTORY FRAMEWORK ON ONLINE PIRACY OF ARTISTIC WORKS

India's legal response to online piracy of artistic works is primarily governed by the Copyright Act, 1957, read alongside the Information Technology Act, 2000. Although the Copyright Act predates the digital revolution, subsequent amendments, particularly in 2012, have sought to adapt its provisions to digital realities. The Act provides the foundational statutory framework for protecting artistic works and addressing unauthorized digital exploitation. However, the effectiveness of this framework depends not merely on legislative intent but also on interpretation and enforcement in an evolving technological environment.

Section 13 of the Copyright Act establishes copyright protection for original artistic works, while Section 14 confers exclusive rights on copyright owners, including reproduction, communication to the public, and adaptation. These rights directly apply to digital contexts, as unauthorized online uploads, downloads, and digital reproductions amount to infringement. Section 51 defines infringement broadly, covering both direct unauthorized acts and secondary infringement by parties who knowingly facilitate such acts. In the digital sphere, this provision is particularly significant, as piracy often involves intermediaries rather than identifiable individual infringers.

The 2012 amendments marked a crucial statutory shift by explicitly recognizing digital exploitation of copyrighted works. Provisions relating to technological protection measures and rights management information were introduced to address circumvention of digital safeguards. These changes reflect India's attempt to align its domestic law with international standards under the WIPO Copyright Treaty.

However, the Act does not comprehensively define online piracy, leaving courts to interpret existing provisions in light of technological developments.

This reliance on judicial interpretation has resulted in a case-driven evolution rather than a clear statutory roadmap. A major statutory tension arises from the interaction between the Copyright Act and the Information Technology Act, 2000. Section 79 of the IT Act grants safe harbour protection to intermediaries, shielding them from liability for third-party content provided they exercise due diligence and do not have actual knowledge of infringement. This provision has been central to disputes involving online platforms hosting artistic works. The lack of clarity regarding the threshold of “actual knowledge” has generated inconsistent enforcement and placed a heavy burden on courts to balance copyright protection with intermediary freedom.

The regulatory framework governing intermediary liability has been significantly expanded by the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which replaced the earlier 2011 Rules. These Rules impose enhanced due diligence obligations on intermediaries, including time-bound content removal requirements and compliance with takedown notices. Notably, Significant Social Media Intermediaries are subject to stricter obligations, such as the appointment of compliance officers, establishment of grievance redressal mechanisms, and adherence to prescribed timelines, including the removal of unlawful content within thirty-six hours of notice. Non-compliance with these obligations results in the loss of safe harbour protection under Section 79.

From a copyright perspective, these Rules strengthen the position of rights holders by enabling faster and more structured takedown of infringing artistic content hosted on digital platforms. At the same time, they increase compliance burdens on intermediaries and raise concerns regarding over-removal and potential impact on lawful expression. Subsequent regulatory developments, including the 2023 amendments addressing online gaming intermediaries and ongoing proposals concerning synthetic and AI-generated content, further illustrate the evolving nature of intermediary regulation in India.

Judicial interpretation has played a decisive role in shaping the statutory

framework's application. In *MySpace Inc. v. Super Cassettes Industries Ltd.*, the Division Bench of the Delhi High Court clarified that intermediaries are entitled to safe harbour protection under Section 79 of the Information Technology Act in copyright disputes, provided they comply with due diligence requirements. The Court harmoniously interpreted Sections 79 and 81 of the Information Technology Act with the Copyright Act, 1957, and held that safe harbour is lost only upon receipt of actual knowledge of specific infringing content, not mere general awareness. In doing so, the Court set aside the earlier single bench ruling, which had adopted a narrower view of intermediary protection. Similarly, in *UTV Software Communication Ltd. v. 1337X.to*, the Court introduced the concept of "rogue websites" and permitted dynamic injunctions to block access to piracy platforms. Although the case involved cinematograph films, its reasoning applies equally to artistic works distributed through digital platforms.

To understand the statutory coverage of online piracy, a comparative table may be introduced:

Table 2: Statutory Provisions Addressing Online Piracy in India

Statute	Relevant Provision	Scope in Digital Context
Copyright Act, 1957	Sections 13, 14, 51	Protection and infringement of artistic works
Copyright Act, 1957	2012 Amendments	Digital rights and technological protection
IT Act, 2000	Section 79	Intermediary liability and safe harbour
IT Rules, 2021	Due diligence obligations	Platform compliance and takedown

This table highlights that India's statutory response is fragmented across multiple

laws rather than consolidated under a single digital copyright framework. Despite these provisions, enforcement challenges persist. The procedural complexity of injunctions, jurisdictional hurdles, and delays in adjudication often weaken statutory protection. Criminal remedies under Sections 63 and 63A of the Copyright Act exist but are rarely invoked in online piracy cases involving artistic works, largely due to evidentiary difficulties. Consequently, civil remedies such as injunctions and website blocking remain the dominant enforcement tools. In essence, India's statutory framework reflects an incremental adaptation to digital piracy rather than a comprehensive overhaul. While the law formally recognizes digital infringement of artistic works, gaps remain in clarity, enforcement consistency, and technological responsiveness.

VI. JUDICIAL TENDENCIES AND IMPLEMENTATION SYSTEMS TO COUNTER ONLINE PIRACY IN INDIA

Indian judiciary has been front and center in developing enforcement environment against online piracy especially in the lack of a comprehensive digital copyright law. The operating environment has forced the courts to apply traditional copyright principles in technology-intensive settings and frequently strike a balance between the rights of the copyright holder, intermediary and user. The reaction of the courts to the issue of artistic works being pirated online indicates a cultural shift in judicial response to adopt a more action-oriented response to the problem, but the issue of overreach and proportionality has yet to be overcome.

A landmark case where the intermediary liability of hosting infringing material was dealt with by one of the first major judicial interventions was in *Super Cassettes Industries Ltd. v. MySpace Inc.* where the Delhi High Court considered the intermediary liability. The Division Bench of the Delhi High Court clarified that intermediaries are entitled to safe harbour protection under Section 79 of the Information Technology Act, provided they comply with due diligence requirements and act upon receiving actual knowledge of specific infringing content. The judgment set aside the broader obligations imposed by the single bench and affirmed that intermediaries are not required to proactively monitor content, thereby

reinforcing conditional safe harbour protection within the copyright enforcement framework.

The judicial trends were also improved as the practice of the injunctions in blocking websites was developed. The Delhi High Court in *UTV Software Communication Ltd. v. 1337X* to accept the issue of so-called rogue websites, whose main purpose is to carry out pirated content. The Court allowed dynamic injunctions, which enabled copyright owners to restrain mirror and redirect sites without the need to initiate fresh proceedings. The case did not mainly deal with films, but the same principles are applicable to artistic works that are distributed via piracy sites and image-hosting websites, and illegal streaming sites. This ruling was a breakthrough in as much as it dealt with the adaptive quality of online piracy.

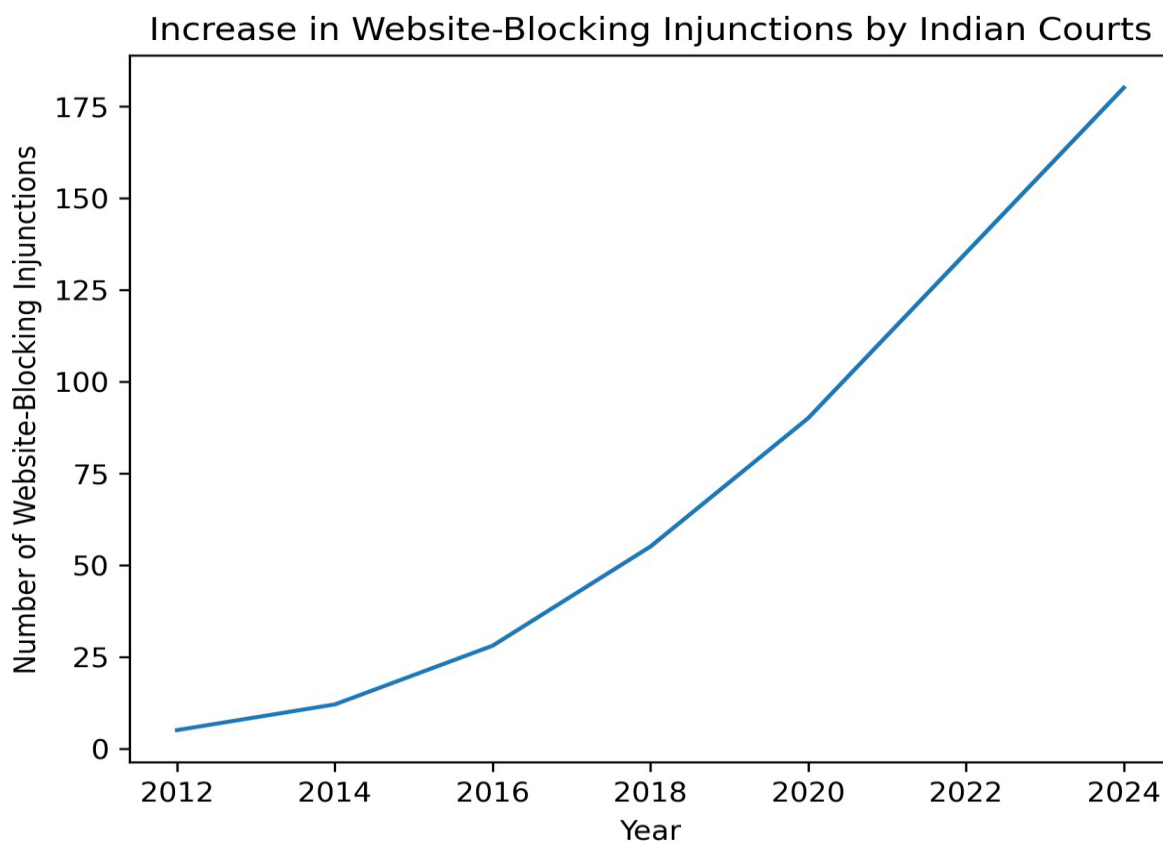
The other significant aspect of judicial enforcement is that it acknowledges John Doe or Ashok Kumar injunctions. These orders enable the rights owners to pursue remedy against anonymous offenders who most probably will violate the copyrighted content over the internet. Such injunctions have been gradually allowed by courts in anticipation of a mass violation especially when a high-valued creative content is released. As much as they have been successful in reducing large scale piracy, these orders have created the problem of over blocking and effecting on the legitimate content, and in this regard, the judiciary has had to walk the fine line.

The following table could be added in order to comprehend the development of the tools of judicial enforcement:

Enforcement Tool	Judicial Basis	Purpose
Intermediary Liability	MySpace case	Platform accountability
Website Blocking	UTV v. 1337X	Prevent access to pirate sites
Dynamic Injunctions	Delhi HC jurisprudence	Address mirror websites
John Doe Orders	Pre-emptive relief	Control unidentified infringers

This table shows that the remedial tools have been increased at the speed and

complexity of online piracy by the courts. In spite of this, enforcement is still mostly civil in nature. The copyright act criminal remedies are rarely sought in digital piracy of artistic works primarily because of challenges posed in tracking down offenders and capturing digital evidence. The transition to the Bharatiya Sakshya Adhiniyam, 2023 further complicates this process by introducing structured certification requirements for electronic records under Section 63, including technical authentication, which may increase evidentiary burdens in prosecution. Injunctive



relief and takedown orders have been favored by courts as they are perceived to be quicker and more feasible. Nevertheless, this excessive trust in civil remedies creates the impact of displacing the enforcement costs on to the copyright holders, restricting the right to access the judicial system by individual artists and small creators.

An illustration in the form of a graph can be presented herein because, presenting the rise in the number of website-blocking injunctions awarded by Indian courts in the last ten years. That would indicate an obvious upward trend, which would be judicial acknowledgement of piracy as a systemic rather than individual malpractice. This tendency is also a hint at a judiciary disposition to experiment with novel

enforcement approaches to deal with technological challenges. Meanwhile, the courts have recognized the necessity to defend freedom of speech and legal access to information. Cases Courts have expressed caution in a number of cases against blanket blocking orders that can accidentally curtail legitimate material. This is an indication of a new judicial awareness that the application of copyright law in the digital era should not be disproportionate and overly broad.

In general, the tendencies in judicial practice in India can be described as a pragmatic yet changing attitude towards the issue of online piracy of artistic works. The gap has been partially addressed by courts through innovative remedies, although implementation has not been uniform and often depends on judicial discretion. Though such interventions have enhanced the enforcement of copyright, it has also made it clear that more statutory explicit guidelines and institutional measures are needed to guarantee consistent and balanced enforcement.

VII. COMPARATIVE LEGAL APPROACHES: INDIA IN INTERNATIONAL PERSPECTIVE

A comparative analysis of intermediary liability frameworks reveals important distinctions between India's approach and that adopted in other major jurisdictions. In the United States, the Digital Millennium Copyright Act (DMCA) establishes a structured notice-and-takedown mechanism under Section 512, whereby intermediaries retain safe harbour protection provided they expeditiously remove infringing content upon receiving proper notification. This framework places primary responsibility on copyright holders to identify infringing material, while offering intermediaries a clear procedural pathway to avoid liability. In contrast, Indian law, as interpreted through Section 79 of the Information Technology Act and judicial decisions such as *MySpace Inc. v. Super Cassettes Industries Ltd.*, adopts an "actual knowledge" standard, requiring specific notice of infringing content before safe harbour is lost. While functionally similar to the DMCA model, the Indian approach lacks a uniformly codified notice-and-takedown procedure, resulting in greater reliance on judicial interpretation and intermediary self-regulation.

The European Union adopts a more interventionist model under Directive (EU) 2019/790 on Copyright in the Digital Single Market, particularly Article 17, which imposes direct liability on certain online content-sharing service providers unless they demonstrate proactive efforts to prevent the availability of infringing content. This includes the use of automated content recognition technologies, often described as upload filtering mechanisms. Compared to this framework, India's approach remains relatively intermediary-friendly, emphasizing reactive compliance through takedown obligations rather than proactive monitoring. However, recent regulatory developments, including the Information Technology Rules, 2021, indicate a gradual shift towards enhanced intermediary responsibility.

From the perspective of international obligations, India is a signatory to the Berne Convention for the Protection of Literary and Artistic Works and the WIPO Copyright Treaty, both of which require member states to ensure effective protection and enforcement of copyright in the digital environment. While India's statutory framework formally complies with these obligations through recognition of digital rights and remedies against infringement, gaps in enforcement efficiency and procedural clarity persist. The absence of a comprehensive statutory mechanism comparable to the DMCA, and the limited adoption of proactive enforcement tools seen in the European Union, suggest that India's framework remains partially aligned but not fully optimized to meet evolving international standards.

This comparative perspective demonstrates that while India has adopted a balanced approach that seeks to protect both copyright holders and intermediaries, it continues to rely heavily on judicial innovation and incremental regulation. A more structured and codified framework, informed by international best practices, may enhance both legal certainty and enforcement effectiveness in addressing online piracy of artistic works.

VIII. SUGGESTIONS AND RECOMMENDATIONS

India is still struggling to effectively curb online piracy of artwork, even under the development of the statutory provisions and creativity by the judiciary. Among the leading ones is the lack of a statutory definition of online piracy in the Copyright

Act, 1957. The pre-emption of the broad and traditional infringement provisions puts an interpretative strain on the courts resulting in inconsistency in their application across jurisdictions. Such ambiguity undermines deterrence and leaves artists, platforms, and users uncertain about the extent of the lawful use of digital use. The other significant obstacle is restriction in enforcing the same.

Although the civil means of remedies like injunctions and blocking websites are currently the overwhelming instruments to counter piracy, they are still rather reactive. Pirated sites frequently re-appear using mirror domains, proxy servers and decentralized hosting and make blocking orders an interim measure. In addition to that, copyright proprietors bear the brunt of the enforcement costs and that also has a disproportionate impact on small creative businesses and independent artists. There are criminal remedies, which are sometimes through the Copyright Act, but seldom are applied in digital piracy cases because of the difficulty in proving them, jurisdiction, and the absence of technical prowess by enforcement agencies.

Intermediary liability still poses a policy dilemma. The Information Technology Act has safe harbour provisions that should be critical to the operability of digital platforms, but their general interpretation can erode copyright. Lack of a consistent takedown process and understanding of the actual knowledge standard is a consistent failure in the timely and efficient removal of infringing artistic content. Such a legal gray area puts the intermediaries in an uncertain state and promotes risk-averse or inconsistent compliance practices. The policy of copyright in India is quite enforcement-based, and there are minimal efforts to enforce preventive and educative steps in the copyright arena. There is still a lack of publicity on copyright, especially surrounding artistic work posted online on social media and digital platforms. The standard of respect for artistic labour and moral rights is diminished as the content on the Internet is perceived by many users as free. Such cultural perception cannot be settled by sanctions of the law, and it is a problem that needs consistent policy intervention.

A multidimensional and balanced approach is required. The following suggestions and recommendations are proposed:

1. Legislative reform should explicitly recognize online piracy as a distinct form of infringement and introduce tailored provisions governing digital dissemination of artistic works. Clear statutory guidelines on intermediary liability, structured notice-and-takedown procedures, and proportional website blocking standards would improve enforcement consistency and enhance judicial predictability.
2. Institutional capacity must be strengthened by enhancing the technical capabilities of law enforcement agencies and courts, particularly in handling digital evidence and addressing cross-border infringement.
3. Alternative enforcement models should be promoted through structured collaboration between copyright holders, intermediaries, and regulators to facilitate faster takedowns and reduce litigation costs. Technological measures such as digital watermarking and automated content identification systems should be actively encouraged, particularly for protecting visual and artistic works.
4. Copyright policy should incorporate sustained awareness and educational initiatives aimed at fostering voluntary compliance. Informing users about the economic and moral consequences of piracy can strengthen respect for artistic rights in the digital environment.

IX. CONCLUSION

The response of the Indian legal system to online piracy of artistic works reflects an evolving but incomplete transition towards digital regulation. While statutory amendments and judicial innovation have strengthened copyright protection, significant gaps remain in definitional clarity, enforcement consistency, and technological adaptability. The study demonstrates that reliance on injunction-based enforcement alone is insufficient to address the systemic nature of online piracy. A balanced framework that reconciles the rights of creators with technological development and access to information is essential. The paper contributes to the discourse by highlighting the need for a coherent and forward-looking copyright regime capable of responding effectively to the realities of the digital economy in

India.

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