



Legal Challenges In Enforcing Copyright Law In India

A Doctrinal and Policy Analysis in the Digital Era (2025 Update)

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Abstract

This paper examines the evolving complexities of copyright enforcement in India, analyzing statutory developments, case law, and policy initiatives. It situates enforcement challenges within the broader context of technological change, exploring how digitalization, artificial intelligence, and decentralized networks undermine traditional legal doctrines. India's framework rooted in the *Copyright Act 1957*, the *Information Technology Act 2000*, and the *Intermediary Guidelines 2021* is further supplemented by the *Cinematograph (Amendment) Act 2023* and the draft *Digital India Bill 2024*.

Despite a robust statutory base, gaps persist in cross-border enforcement, intermediary accountability, and forensic capacity. The paper proposes a calibrated reform roadmap integrating judicial innovation, digital-rights-management tools, and institutional capacity-building to align India's copyright enforcement with global best practices.

Keywords: Copyright, Enforcement, Intermediary Liability, Digital India Bill, Safe Harbor, Artificial Intelligence, Cinematograph Amendment Act 2023, OSCOLA, India.

1. Introduction

The growth of India's digital economy has intensified both the creation and unauthorized dissemination of copyrighted works. From over-the-top (OTT) streaming and music downloads to e-learning content and digital artwork, infringement has expanded in scale and complexity. The enforcement dilemma reflects a structural tension between protecting intellectual property and preserving the constitutional right to free expression under Article 19(1)(a) of the *Constitution of India 1950*.¹

While the *Copyright Act 1957* provides comprehensive civil and criminal remedies, its enforcement mechanisms were designed for a pre-digital era. The rise of online intermediaries search engines, social-media platforms, and harvesting providers has blurred the boundaries of liability. Effective enforcement now depends on harmonizing legal doctrine with technological and institutional innovation.

2. Methodology

This study employs a doctrinal and policy-analysis framework. It reviews primary sources statutes, subordinate rules, and judicial precedents and supplements them with secondary materials such as scholarly commentary, WIPO reports, and governmental policy papers. Comparative references to the United States, European Union, and Singapore illuminate alternative enforcement approaches. The analysis is qualitative, focusing on interpretation, institutional capacity, and proportionality principles that define copyright enforcement in a digital context.

3. Results

3.1. Legal Framework

The central legislation governing copyright in India is the *Copyright Act 1957*, which confers exclusive rights of reproduction, communication, and adaptation upon authors.² The *Copyright (Amendment) Act 2012* introduced technological-protection measures and enhanced performers' rights, aligning India with the WIPO Internet Treaties.³ Complementing this regime is the *Information Technology Act 2000*, which regulates electronic transactions and intermediary liability.⁴ The *Intermediary Guidelines and Digital Media Ethics Code Rules 2021* impose due-diligence obligations requiring intermediaries to remove infringing content upon receipt of lawful orders.⁵ The *Cinematograph (Amendment) Act 2023* strengthens enforcement

by criminalizing unauthorized recording and distribution of films.⁶ Finally, the draft *Digital India Bill 2024* set to replace the IT Act introduces a tiered accountability framework for digital intermediaries, marking a shift toward a unified digital-governance model.

3.2. Jurisprudential Evolution

Indian courts have progressively adapted traditional doctrines to digital realities. In *Shreya Singhal v Union of India* (2015) 5 SCC 1 (Supreme Court of India), the Court clarified that intermediaries are only required to remove content upon receipt of a court or government order, thereby reinforcing procedural fairness and freedom of speech.⁷ In *Super Cassettes Industries Ltd v Myspace Inc* (2017) 240 DLT 478 (Delhi High Court), the Court addressed platform liability, holding that intermediaries cannot be expected to pre-screen all user content but must act expeditiously upon gaining actual knowledge of infringement.⁸ Similarly, in *UTV Software Communication Ltd v 1337x.to and Ors* (2019) SCC On-line Del 8002, the Delhi High Court pioneered the concept of **dynamic injunctions**, allowing plaintiffs to block mirror websites without repetitive litigation.⁹ These judgments collectively signify judicial recognition of technological fluidity and the need for balanced enforcement.

4. Discussions

Despite statutory and judicial progress, enforcement remains fragmented. Key problem areas include:

(a) Intermediary Liability Ambiguity.

The 'safe harbor' principle under section 79 of the *IT Act 2000* protects intermediaries acting as neutral conduits. Yet uncertainty persists over what constitutes "actual knowledge" and the extent of proactive-monitoring duties.

(b) Cross-Border Jurisdiction.

Infringing content often resides on foreign servers, complicating domestic injunctions. Mutual Legal Assistance Treaties (MLATs) remain slow, and jurisdictional conflicts limit effective takedown.

(c) Procedural Bottlenecks.

Civil enforcement entails complex discovery and preservation processes, often requiring technical expertise beyond most courts' capacity.

(d) Forensic Capacity Deficit.

Police and judicial officers lack specialized training in digital-evidence preservation and chain-of-custody documentation, weakening prosecutions.

(e) AI and Generative Content.

Artificial-intelligence tools that autonomously produce derivative works blur authorship and originality tests under section 13 of the *Copyright Act 1957*.

(f) Over-Blocking and Fundamental Rights.

Dynamic-blocking orders may inadvertently suppress lawful expression, contravening proportionality standards under Article 19(2) of the Constitution.

4.1. Comparative Perspectives

Comparative jurisdictions illustrate alternative enforcement paradigms. The United States' *Digital Millennium Copyright Act 1998* (US) § 512 establishes a “notice-and-takedown” mechanism balancing enforcement with counter-notice rights for users.¹⁰

The European Union's *Digital Services Act 2022* and *Directive (EU) 2019/790 on Copyright in the Digital Single Market* impose proactive-monitoring duties on major platforms while embedding proportionality safeguards.¹¹

Singapore's *Copyright (Amendment) Act 2021* offers expedited, judge-supervised site-blocking procedures.

India could hybridize these models through a **statutory counter-notice mechanism** and a **judicially overseen fast-track injunction** process to balance enforcement with due process.

4.2. Policy Developments (2023–2025)

Recent policy initiatives demonstrate India's intent to modernize enforcement. The *Digital India Bill 2024* proposes a multi-tier intermediary framework distinguishing “significant platforms” from smaller entities and imposing enhanced due diligence duties.¹² The *National IPR Policy 2024* seeks specialized IP benches and digitized copyright registries to accelerate dispute resolution.

The National Crime Records Bureau is piloting blockchain-based watermarking to authenticate audiovisual works.

Collectively these reforms suggest a shift toward **technology-enabled governance**, yet policy coherence between the Ministry of Electronics and IT, DPIIT, and the Ministry of Information and Broadcasting remains critical to prevent overlap and fragmentation.

4.3. Recommendations

a) Codify a Unified IP Enforcement Code.

Integrate the *Copyright Act* and *IT Act* to ensure consistent intermediary obligations and procedural uniformity.

b) Establish Specialized IP Benches.

Constitute High-Court divisions staffed with technical experts to expedite digital-content litigation.

c) Adopt a National Digital Rights Management Portal.

Employ blockchain to verify ownership and automate takedown tracking.

d) Issue Judicial Guidelines on Dynamic Injunctions.

Ensure that blocking orders follow transparent proportionality tests and periodic review.

e) Expand International Co-operation.

Use WIPO and INTERPOL channels for coordinated cross-border takedowns.

f) Build Institutional Capacity.

Train enforcement officers and judges in cyber-forensics and IP analytics.

g) Encourage Industry Self-Regulation.

Incentivize voluntary compliance codes and joint anti-piracy initiatives among OTT and social-media platforms.

5. Conclusion

India's copyright-enforcement regime stands at a pivotal juncture. Statutory and jurisprudential progress has been substantial, yet practical bottlenecks persist. Balancing innovation with protection requires not only legal reform but also administrative agility and technological foresight.

Integrating AI-assisted monitoring, unified procedural codes, and robust due-process guarantees can forge a resilient enforcement architecture. Ultimately, the strength of Indian copyright law will rest on its ability to uphold creators' rights while preserving democratic access to knowledge and expression.

6. References

1. *Constitution of India 1950*, art 19(1)(a).
2. *Copyright Act 1957* (No 14 of 1957).
3. *Copyright (Amendment) Act 2012* (No 27 of 2012).
4. *Information Technology Act 2000* (No 21 of 2000).
5. *Intermediary Guidelines and Digital Media Ethics Code Rules 2021* (GSR 139 E).
6. *Cinematograph (Amendment) Act 2023* (No 24 of 2023).
7. *Shreya Singhal v Union of India* (2015) 5 SCC 1 (Supreme Court of India).
8. *Super Cassettes Industries Ltd v MySpace Inc* (2017) 240 DLT 478 (Delhi High Court).
9. *UTV Software Communication Ltd v 1337x.to and Ors* (2019) SCC OnLine Del 8002.
10. *Digital Millennium Copyright Act 1998* (US) § 512.
11. *Directive (EU) 2019/790 on Copyright in the Digital Single Market* [2019] OJ L130/92.
12. Ministry of Electronics and Information Technology, 'Digital India Bill 2024: Consultation Paper' (Government of India, 2024).