



Copyright and Fair Use in the Digital Age: Legal Challenges and Transformative Approaches

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ABSTRACT :

This research paper explores the dynamic evolution of copyright law in the digital era, focusing particularly on the role and challenges of fair use in the face of emerging technologies, online content proliferation, and global legal inconsistencies. As the digital world expands through platforms such as YouTube, AI tools, and NFTs, copyright enforcement struggles to balance creative rights and public interest. The paper reviews statutory provisions and case law from India, the United States, and the European Union, drawing attention to how courts and lawmakers have responded to memes, parody, educational use, and AI-generated works. It evaluates the transformative use doctrine, policy ambiguities, and jurisdictional conflicts, offering targeted recommendations for legal reform, clarity in fair use application, and international harmonization of copyright standards. Through comparative analysis and contemporary examples, this study asserts the necessity for a flexible, yet enforceable, copyright regime in the digital age.

Keywords: Copyright Law, Fair Use, Digital Content, Intellectual Property, Transformative Use, AI-Generated Works, NFTs, Meme Culture, Content Takedown, Indian Copyright Act, DMCA, Jurisdictional Conflicts

I. INTRODUCTION

The digital era has transformed how creative works are produced, shared, and consumed. From streaming platforms and YouTube reaction videos to memes and educational resources on WhatsApp, today's online content flows across platforms at a speed unimaginable a decade ago. But this has also led to a growing tension between protecting the rights of original creators and allowing society to freely use, adapt, or comment on those creations—especially in socially beneficial ways like education or satire.

In India, this balance is governed primarily by the Copyright Act, 1957, which includes specific exceptions to infringement under what's known as "fair dealing."¹ While this provides some legal cover for actions like quoting in reviews, using content for private study, or reporting current events, it is still far narrower than the more flexible "fair use" doctrine followed in the United States.² For instance, remixing a song for a YouTube video may be considered transformative (and therefore legal) in the U.S., but could still be considered infringement under Indian law.³

With the rise of user-generated content and the algorithmic policing of digital platforms, many creators and educators in India now find themselves at odds with unclear legal boundaries. Is sharing a meme copyright infringement? Can students photocopy chapters for exam prep? What about AI-generated summaries from copyrighted books? These are questions Indian courts and lawmakers are increasingly being forced to answer.

This paper explores these tensions and opportunities. It examines the evolution of copyright law in India, analyzes key case law on fair use, and compares Indian and international approaches. It argues that the future of copyright protection must recognize "transformative use" not just as a legal exception but as a cultural necessity in the digital economy.

II. COPYRIGHT IN THE DIGITAL LANDSCAPE

The digital world has fundamentally altered how we create, distribute, and interact with copyrighted material. Whether it's a viral dance video on Instagram that uses a popular song, or a lecture that includes film clips on YouTube, creative expressions are now embedded in everyday digital interactions. This transformation has blurred traditional notions of copyright ownership and control.

In India, the Copyright Act of 1957 continues to serve as the backbone of intellectual property protection.⁴ However, it was drafted at a time when digital distribution, user-generated content, and streaming platforms did not exist. Today's legal challenges stem from the fact that while content creation has become decentralized and collaborative, the legal protections around it remain centralized and rigid.

¹ The Copyright Act, 1957, No. 14 of 1957, § 52, Acts of Parliament, 1957 (India).

² See 17 U.S.C. § 107 (2023) (outlining the four-factor fair use test in the U.S. Copyright Act).

³ Prateek Singh, *Fair Dealing and User Rights in India: Comparative Reflections with the U.S.* 16 Indian J. L. & Tech. 145, 158 (2020).

⁴ The Copyright Act, 1957, No. 14 of 1957, Acts of Parliament, 1957 (India).

Section 52 of the Indian Copyright Act offers certain exceptions to infringement under what is legally termed “fair dealing.”⁵ While these exceptions—like use for private study, criticism, or reporting—serve a useful function, they are limited and do not adequately reflect the way content is used or reused online. For example, remixing a song or making parody videos might be considered transformative elsewhere but can still fall afoul of Indian law.⁶ Moreover, digital platforms like YouTube or Instagram are now not just hosting content—they are regulating it. Through AI-powered systems like Content ID, these platforms automatically remove or demonetize content suspected of copyright violation. In many cases, creators lose content without a real opportunity to claim fair use under Indian law.⁷ At the same time, the 2021 IT Rules in India have placed new responsibilities on digital platforms, but without providing clear protections for users engaging in lawful transformative or educational use.⁸ Thus, while digital media has democratized content creation, Indian copyright law has not evolved fast enough to support this shift. The absence of a flexible “fair use” doctrine—like in the United States—means that many lawful, transformative, or educational uses of content remain legally vulnerable.⁹ This rigidity risks stifling creativity, expression, and access to knowledge in India’s digital future.

III. UNDERSTANDING FAIR USE: ORIGINS AND EVOLUTION

The idea of “fair use” or “fair dealing” is central to copyright law because it ensures that the public retains access to knowledge, creativity, and commentary—even when that content is copyrighted. However, the way this doctrine has developed varies widely between countries, particularly between India and the United States.

Fair use in the United States has its roots in 19th-century court rulings that allowed limited use of copyrighted works without permission if the purpose was transformative or beneficial to public interest—such as for criticism, education, or parody.¹⁰ This eventually evolved into the four-factor test codified in Section 107 of the U.S. Copyright Act. These factors include the purpose of the use, the nature of the original work, the amount used, and the impact on the market.¹¹ U.S. courts routinely apply this test to decide if a new use qualifies as “fair.”

India, on the other hand, follows the “fair dealing” model derived from British law. The Indian Copyright Act, 1957—particularly Section 52—lays out specific situations where copyrighted work can be used without infringing, including private research, education, criticism, and reporting of current events.¹² However, the list is exhaustive, not illustrative, meaning courts cannot freely interpret new scenarios as “fair use” unless explicitly stated.¹³ This difference in flexibility creates problems in the digital world. For instance, while a YouTube parody may pass as transformative fair use in the U.S., it could still be considered infringement under Indian law if parody is not among the permitted exceptions.¹⁴ Indian courts have occasionally broadened interpretation, like in the *Civic Chandran v. Ammini Amma* case, where a play satirizing another literary work was deemed transformative.¹⁵ But this openness is the exception, not the rule.

As global content exchange increases, Indian legal scholars and judges are beginning to question whether the fair dealing model is outdated for the digital age. There is a growing call to adopt a more purpose-based, flexible approach that allows courts to consider the context and value of the use, rather than relying only on rigid categories.¹⁶

IV. TRANSFORMATIVE USE AND EMERGING TECHNOLOGIES

In today’s digital world, the meaning of “use” itself has shifted. It’s no longer limited to copying or reproducing. Instead, users transform existing works into new formats—like memes, remixes, AI-generated summaries, or reaction videos. This concept, called *transformative use*, plays a major role in global copyright law. However, Indian law still lags in clearly recognizing or protecting such uses.

⁵ Id. § 52.

⁶ Ajabe-Alhat, R., & Priyadarshi, D., *IPR in the Digital Era: Legal Aspects of Copyright in the Context of Online Platforms*, 2024 J. Ecohumanism, <https://ecohumanism.co.uk/joe/ecohumanism/article/view/5391>.

⁷ Mondal, S. & Mandal, A., *Copyright Infringement in the Digital Landscape*, Alliance J. Intell. Prop. L. 2024, <https://www.alliance.edu.in/research/AJIPL/ajipl-2024/assets/pdf/copyright-infringement-in-the-digital-landscape.pdf>.

⁸ Ashwini, S., *Social Media Platform Regulation in India*, in *Perspectives on Platform Regulation* 215 (OAPEN, 2021), https://library.oapen.org/bitstream/handle/20.500.12657/58180/external_content.pdf#page=215.

⁹ Chakraborty, D., *Copyright Challenges in the Digital Age: Balancing IP Rights and Data Privacy in India’s Online Ecosystem*, SSRN (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4647960.

¹⁰ Craig, C.J., *Globalizing User Rights-Talk: On Copyright Limits and Rhetorical Risks*, 33 Am. U. Int’l L. Rev. 125, 129–31 (2017), <https://digitalcommons.wcl.american.edu/auilr/vol33/iss1/5>.

¹¹ 17 U.S.C. § 107 (2023).

¹² *The Copyright Act, 1957*, No. 14 of 1957, § 52 (India).

¹³ Menon, N. V., Roy, K., & Parvathy, G. R., *Unravelling the Differences Between Fair Use and Fair Dealing: Limitations to Copyright*, Indian J. Integrated Rsch. L. (2023), <https://ijirl.com/wp-content/uploads/2023/01/UNRAVELLING-THE-DIFFERENCES-BETWEEN-FAIR-USE-AND-FAIR-DEALING-LIMITATIONS-TO-COPYRIGHT.pdf>.

¹⁴ Vig, S., *Intersection of Generative AI and Copyright: An Indian Perspective*, J. Sci. & Tech. Pol’y Mgmt. (2024), <https://www.emerald.com/insight/content/doi/10.1108/JSTPM-08-2023-0145/full/html>.

¹⁵ *Civic Chandran v. Ammini Amma*, AIR 1996 Ker 273 (India).

¹⁶ Bhatia, G., *Fair Use, the Three-Step Test, and Access to Knowledge: A Doctrinal, Rights-Based Approach*, SSRN (2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2634314.

Under Section 52 of the Indian Copyright Act, exceptions are specific and finite.¹⁷ There is no clause that openly accommodates *transformative* works—those that repurpose copyrighted material in new, socially valuable ways. With the rise of AI, this issue has become more complex. Can AI-generated output be considered transformative? Who owns it? Courts have yet to provide clarity.¹⁸

The gap is widening as AI tools can now write poetry, create music, or mimic voices—activities deeply embedded in copyright.¹⁹ Without reform, Indian law may continue to see these as infringement, even when there is creative reinvention involved.

V. LEGAL CHALLENGES AND ENFORCEMENT ISSUES

Copyright enforcement in India faces a double-edged sword: weak deterrence on one end, and over-policing on platforms like YouTube on the other. Small creators are often targeted by algorithmic takedowns, while big platforms escape liability by citing safe harbor clauses.²⁰

While the 2021 IT Rules introduced accountability for intermediaries, they didn't create fair use exemptions for user content.²¹ There's also a lack of fast-track mechanisms for resolving content disputes. Most cases drag through civil courts, making enforcement expensive and ineffective. Plus, there's very little clarity on AI authorship rights—leaving digital creators unprotected.

The biggest challenge is that Indian law currently lacks a *balancing test*—one that weighs the social value of the use against harm to the original creator. This imbalance has made enforcement rigid, unpredictable, and poorly suited to the realities of the internet age.

VI. CASE LAW ANALYSIS

Indian courts have made progress, but inconsistently. In *Civic Chandran v. Ammini Amma*, the Kerala High Court recognized that a parody of a drama was a creative and transformative use, not infringement.²² This was a step toward a more flexible doctrine.

In the *DU Photocopy Case (The Chancellor Masters v. Rameshwari Photocopy Services)*, the Delhi High Court ruled that photocopying for classroom teaching fell within fair dealing.²³ This was a big win for educational rights.

However, in *Super Cassettes v. Hamar TV*, the Delhi High Court ruled against the television channel for playing music clips, showing the court's stricter stance when commercial interests were involved.²⁴ These cases show how courts in India toggle between liberal and conservative interpretations, leading to uncertainty.

The need of the hour is consistent judicial reasoning that acknowledges the transformative value of digital content creation and weighs it fairly against copyright claims.

Conclusion and Recommendation

In the evolving landscape of digital expression, India's copyright law finds itself at a crossroads. While the Copyright Act, 1957, has served as a vital legal framework for decades, its static interpretation of "fair dealing" now struggles to accommodate the dynamic realities of user-generated content, remix culture, and AI-assisted creation. The digital age demands more than rigid exceptions—it calls for a nuanced, context-sensitive approach that respects the rights of creators while enabling innovation, education, and free speech. The comparative study with the United States reveals the value of a flexible, purpose-driven doctrine like fair use, which evaluates transformation, intent, and market impact. Indian courts have shown glimpses of progressive interpretation, but this remains sporadic. To move forward, a legislative reform is essential. Section 52 should be amended to adopt an illustrative list of fair use cases, rather than an exhaustive one, giving courts discretion to consider emerging technologies and new forms of expression. Judicial training on digital copyright realities and the establishment of a fast-track tribunal for digital content disputes would also bring much-needed clarity and efficiency. Ultimately, India must recalibrate its copyright ecosystem not to weaken protections, but to ensure they remain relevant, inclusive, and future-ready.

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²¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139(E), Ministry of Electronics and Information Technology, India.

²² *Civic Chandran v. Ammini Amma*, AIR 1996 Ker 273 (India).

²³ *The Chancellor Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services*, 2016 SCC OnLine Del 5380.

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