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Copyright Challenges in the Digital Age: A Critical Study of Social Media and Artificial Intelligence in India

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Abstract
The current copyright system is based on the assumption that copyright is a long, expensive process. However, with the rise of social media platforms and generative artificial intelligence, this assumption has been challenged. Content can be copied, combined, and shared quickly and easily by millions of people on social media platforms. AI systems are trained using large databases of pre-existing material to create new text, images, music, and videos. This paper considers how the present Indian copyright regime deals with this issue. By looking at the Copyright Act, 1957, the Information Technology Act, 2000,1 and intermediary rules, alongside more recent rulings and policy papers such as the ANI Media Pvt. Ltd. v. Open AI OpCo LLC2 [interim] (Delhi HC, July 24, 2026), Working Papers on Generative AI and Copyright (Department for Promotion of Industry and Internal Trade, December 2025), and the amended IT Rules (February 2026), this paper argues that the Copyright Act has not provided protection for learning but rather expression. Further, while practical solutions exist to combat infringement on social media platforms, they are less effective against the invisible infringement that can occur through AI training. There is no guidance as to whether or not the output would be attributed to an author. The interim ruling is also very context- specific. Overall, it is recommended that there be a clear provision under the statute to provide clarity regarding training of AI, alongside compensation transparency around datasets, a clear test to identify authorship due to human input, more accountability around datasets, a clear test to identify authorship due to human input, more accountability around notice and action, and a provision for personality rights.

Keywords: Copyright, Social Media, Generative Artificial Intelligence, Fair Dealing, Intermediary Liability, Authorship, Text and Data Mining, India.

1. Understanding Copyright Issues in the Digital Age

It is important to understand the fundamentals of how copyright works. Copyright does not protect ideas, facts, or manner of expression; it protects the original expression of an idea when it is expressed in some way.3 This leads to confusion and many issues associated with digital

1 The Copyright Act, 1957 (Act 14 of 1957), ss. 14, 51 and 52; The Information Technology Act, 2000 (Act 21 of 2000), s. 79. 2 ANI Media Pvt. Ltd. v. OpenAI OpCo LLC, I.A. 45300/2024 in CS(COMM) 1028/2024, 2026: DHC:5900 (Delhi High Court, July 24, 2026). 3 The Copyright Act, 1957 (Act 14 of

1957), s. 13; R.G. Anand v. Deluxe Films, (1978) 4 SCC 118. technology. A social media platform allowing users to upload a film clip and a learning model using patterns from millions of articles will impact copyrighted materials4. However, this issue needs to be split into sections. By referring to it as "piracy in a new form," confusion arises. There are many issues that can be divided into 4 categories. Firstly, there is the input issue. This looks at whether the content created by an AI system infringes and whether it can be owned. Thirdly, the platform issue. This looks at the liability of social media platforms for content uploaded by their users. Finally, the identity issue. This looks at whether a person's voice, face, or performance is used in synthetic media. These categories have been created to help analyze the issue. There is no reference to these in the Indian legislation. Another important distinction is between unfairness to creators and infringement. Sometimes something can be unfair to creators but not infringing. Similarly, something can be infringing but not detrimental to someone's livelihood. There is much confusion in public about these issues. A court will look at whether the Act has been breached and if there are any exceptions. However, legislation might look at whether a current balance is still beneficial to creators, users and innovators. This paper will attempt to keep these separate. The proposals for reforming in Part 8 of this paper depend on the second question. Whereas the findings in Parts 3-6 depend on the first. There are 4 parties to consider. Creators and publishers rely on exclusive rights. Platforms and AI systems rely on scale. Users rely on having freedom to criticize, comment, and remix. Finally, the benefit comes from a thriving creative industry and useful technology. Internationally, there are 3-step tests that help to balance these interests. Exceptions can only be made in certain special circumstances that do not conflict with normal use of the work and do not unreasonably prejudice the legitimate interests of the rightsholder.

2. International and Indian Legal Framework

India has obligations arising from the Berne Convention, the TRIPS Agreement, and the two WIPO Internet treaties5. Berne provides for national treatment and protection for reproduction. TRIPS provides additional enforcement provisions and the three-step test. The WIPO Copyright Treaty provides protection for communication to the public and availability on demand. It also provides for protection for technological measures and rights management information. However, none of the international agreements provides specific guidance regarding training an AI system using protected works. This creates a situation where general principles are followed internationally, with the extent of exceptions being determined by the individual countries. In India, the Copyright Act, 1957 provides the legal framework. Section 13 contains a list of works that are protected by copyright, and Section 14 provides for exclusive rights for the owner.6 These include reproduction of the work in any tangible form, including any medium in electronic form. Authorship is provided by section 17, providing that the author will be the first owner; however, there are provisions regarding employment and commission. Section 51 provides for what constitutes infringement, section 55 provides for civil remedies, and section 62(2) provides a right for the owner to bring an action in their place of residence or business. Section 63 provides criminal sanctions. Amendments in 2012 introduced Section 65A, providing protection for technological measures and Section 65B, providing protection for rights management information. Notably, section 52 is an exhaustive list of acts that do not constitute infringement. These include using the work in accordance with fair

4 The Copyright Act, 1957 (Act 14 of 1957), s. 14(a)(i) 5 Berne Convention for the Protection of Literary and Artistic Works, 1886 (as revised at Paris, 1971), arts. 5 and 9; Agreement on Trade-Related

Aspects of Intellectual Property Rights (TRIPS), 1994, arts. 9 and 13; WIPO Copyright Treaty, 1996, arts. 8 and 11–12. 6 The Copyright Act, 1957 (Act 14 of 1957), ss. 13, 14(a)(i), 17, 51, 55, 62(2) and 63. dealing for private or personal purposes, including research, criticism or review, or news reporting (section 52 (1)(a)). Section 52(1)(b) and 52(1)(c) protect temporary or incidental storage. The latter also provides that if an intermediary receives a written complaint, they must cease to enable access for twenty-one days unless directed otherwise by the court. There are no specific exemptions relating to text and data mining or AI. Section 2(d)(vi) is the only provision to mention computer- generated works. It states that the person who causes the work to be created shall be the author of a computer-generated literary, dramatic, musical, or artistic work7. This was drafted in a time when computers were used as aids rather than autonomous generative models. Outside of the Copyright Act, Section 79 of the Information Technology Act, 2000 provides an intermediary safe harbour. The Intermediary Guidelines and Digital Media Ethics Code Rules, 2021 provide the conditions for due diligence for this protection. Overall, Indian law provides for owners to have a right to prevent copyright post-hoc and seek compensation but does not provide any mechanism for distributing the economic value extracted from creative works using AI systems and platforms. It does not contain any provisions regarding ownership of purely machine-generated outputs.

3. Social Media: User-generated Content

Typically, the usual infringers will be the users, uploading a scene from a film, reposting an uncredited photograph, or placing a commercial song in a short video. The platform will be a secondary party. The Indian legal system has addressed this via section 51(a)(ii), providing that it is an infringement and the safe harbour provisions under section 79 of the IT Act8. The SC in Shreya Singhal v. Union of India interpreted section 79(3)(b) to mean that an intermediary can only lose their protection if they have 'actual knowledge' (meaning a court or government order has been issued) of the infringing activity9. This has also been applied in Myspace, Inc. v. Super Cassettes Industries Ltd. by the Delhi High Court. The Division Bench considered that under section 51(a)(ii), the platform must have 'actual and specific' knowledge of the infringing material. Therefore, they would need to be notified of the works and where they are. They also rejected the possibility of a general obligation to pre-screen10. This is a fair balance for a platform with millions of posts; however, a large burden is placed upon the rights holder to identify every infringement and report it, and this may often come too late. There are issues with the current system. Firstly, the notice process takes into account the 21-day period under section 52(1)(c). This was designed for the original internet, but viral clips would be viewed very quickly. Secondly, there is no counter- notice mechanism in the Act. If a user has had their content removed, they have no statutory ability to dispute it within the platform. If the right holder issues a non-specific or incorrect notice, there are no statutory repercussions. Finally, there is a large amount of enforcement done via an automated and private mechanism. This compares uploaded material to reference files. There is no statutory recognition of these in India, so if there is an error, for example, flagging a legal quote, there is no clear remedy. This is a doctrinal observation. The paper does not provide evidence on how often this happens. Social media is known for remixed content, including memes and reaction videos. The Act does not provide a general exception for parody. This needs to fall under the fair dealing exceptions to criticise, review, or report current events. This means using the fairness criteria developed by the courts to determine whether this falls under fair dealing. This is flexible; 7 The Copyright Act, 1957 (Act 14 of 1957), ss. 2(d)(vi), 52(1)(a), 52(1)(b), 52(1)(c), 65A and 65B; The Copyright Rules, 2013, r. 75. 8 The

Copyright Act, 1957 (Act 14 of 1957), s. 51(a)(ii); The Information Technology Act, 2000 (Act 21 of 2000), s. 79. 9 Shreya Singhal v. Union of India, (2015) 5 SCC 1. 10 Myspace Inc. v. Super Cassettes Industries Ltd., 2016 SCC Online Del 6382. however, it can create uncertainty. This creates a chilling effect on legal creativity. A recent ruling has found that just having a commercial purpose does not mean the defendant is out of scope of section 52(1)(a)11. Many creators will make money off their content. This will be interesting to see if this is applied to remixed content. There are also considerations to be made about ownership and licensing. The user provides a broad license to the platform through the terms and conditions. However, the assignment must be in writing, and if no time is provided, it will be presumed to last 5 years; if no territory is given, it will be presumed to be India12. Many creators will agree to the terms without actually reading them. Whilst this is not illegal, it does raise questions about fairness. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, were notified on February 10, 2026 and in effect since February 20, 202613. This provides more provisions for 'synthetically generated information'. They require any lawful synthetic information to be clearly labelled and have reduced the takedown timeframes. This is mainly due to issues with deepfakes and misinformation. This does not create new copyright, and it does not inform the platform whether the AI image labelled is infringing on someone's artwork. This shows how the work will be labelled by the platform.

4. Generative AI: Training Data and Inputs

Generative AI models are created by modelling upon extensive works that are input into a dataset. While the final model may not contain discernible copies, the training process will still involve temporarily storing (or permanently, to some extent) copies. As electronic storage is considered reproduction (section 14(a)(i))14, the initial consideration will be whether such storage would fall within an exemption. The DPIIT committee noted that using protected works for training AI models could lead to infringement under section 51, and there is no exemption within the Act for this purpose15. The ANI judgment, the first judicial consideration of this issue in India, was on 24th July 2026, when Justice Amit Bansal of the Delhi High Court denied an interim injunction to the news agency ANI. The Court explained that electronic storage of a literary work, whether temporary or permanent, would involve exercising the reproduction right (Section 1 (a)(i). However, as OpenAI had admitted to temporarily storing during training, it was prima facie held that this was covered by the exemption in section 52(1)(a)(i). A two-stage test was applied. Firstly, a purpose test was applied to determine if the use was for private/personal purposes (including research), and secondly, a fairness test was applied. Some key points made by the Court include that 'private' was interpreted as involving more than just individuals. It was considered that as the works were being stored in a private environment, only accessible by the models, this constituted private use for section 52. 'Research' was not restricted to research conducted by humans. Further, the Court decided that the use was for the purposes of training, there was for the purposes of training, there was no evidence of subscriber or revenue loss from ANI, and there were significant benefits to the public. It was decided that the use by OpenAI for commercial purposes did not disqualify it. With regard to the outputs, the examples provided by ANI were all post the cut-off

11 ANI Media Pvt. Ltd. v. OpenAI OpCo LLC, I.A. 45300/2024 in CS(COMM) 1028/2024, 2026: DHC:5900 (Delhi High Court, July 24, 2026). 12 The Copyright Act, 1957 (Act 14 of 1957), ss. 19(1), 19(5) and 19(6). 13 The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, G.S.R. 120(E), February 10, 2026. 14 Copyright Act, 1957, s. 14(a)(i).

15 Department for Promotion of Industry and Internal Trade (DPIIT), Working Paper on Generative AI and Copyright (Part I): One Nation, One Licence, One Payment (December 2025).

date for training, meaning it appeared they were using real-time search. This therefore meant it could not be proved that they remembered the material. The responses were not substantially similar to the articles from ANI. Finally, regarding the jurisdiction issue, the Court ruled in favour of ANI. However, OpenAI's servers were offshore. Some equity considerations were made, however. ANI could have prevented OpenAI from crawling, and they had previously offered a licence to OpenAI, indicating that compensation could have been made. Interpretation of the judgment. However, it should not be over-analysed. It is an interim order, and the Court noted that its comments have no influence on the outcome. The case is ongoing. Regarding the fair dealing consideration, it was based upon the admission of temporary storage. There was no evidence that the articles from ANI were included in the corpus. It was specifically not decided whether memorising and reproducing will be permitted for trial, whether outputs made using retrieval- augmented generation can constitute infringement and whether the defence applies to datasets collected from pirated or paywalled material16. The material used was openly accessible on ANI's website. As a result, commentators are likely to debate the breadth of the 'private use' and 'research' clauses. This is because the exception was designed with individuals in mind. Furthermore, this article has not found clear information about the conclusion or appeal status of this suit, so it is recommended that you check the current status. The DPIIT proposal, The Working Paper (8th December 2025), considers the issue from a policy perspective. The eight-member committee (formed on the 28th April 2025) considered a number of options. These included unrestricted exceptions, text and data mining exceptions (with and without opt-out). Voluntary licensing exceptions and extended collective licensing. The committee recommended a 'hybrid model' whereby there will be an obligatory unrestricted license, meaning developers can train on all legally accessed works. However, creators will have a statutory right to remuneration. The royalty rate would be determined by a government-appointed committee. Once the AI system is commercialised, the authors would receive payment. The central body (CRCAT) would collect and distribute the royalties17. Copyright holders would not be allowed to refuse to let their work be used. This would apply to systems that have been trained or are already being used. This approach has faced criticism. Some commentators have argued that it creates a complex regulatory framework without considering whether training constitutes infringement. Other commentators are unsure how the royalty pool will be valued and divided among potentially over a billion copyright holders. Others have noted that compensating for access does not address the outputs. There is also a conflict between these developments and the Delhi High Court's prima facie finding that training on openly accessible material can constitute fair dealing. As a result, if training can constitute fair dealing, then the compulsory payment scheme cannot be justified on the basis that training constitutes infringement. Instead, it must be justified as a policy decision to ensure creator's benefit. This requires a clear statutory framework. Comparisons: Comparing this to other jurisdictions around the world shows that there is no clear answer. Within the European Union, text and data mining are permitted for research purposes. For other users, the right holder has reserved their rights in a machine-readable format. Japan allows data analysis that is not for the enjoyment of the expression of the works. In Singapore, computational data analysis is permitted for lawfully accessed material18. Within the United States, two district court decisions in 2025 have 16 ANI Media Pvt. Ltd. v. OpenAI OpCo LLC, I.A. 45300/2024 in CS(COMM) 1028/2024, 2026: DHC:5900 (Delhi High Court, 24 July 2026) 17 Department for Promotion of Industry and Internal Trade (DPIIT), Working Paper on Generative AI and Copyright (Part

I): One Nation, One Licence, One Payment (8 December 2025). 18 Directive (EU) 2019/790, arts. 3–4; Copyright Act of Japan, art. 30-4; Copyright Act 2021 (Singapore), s. 244. ruled that training can constitute fair use. However, they both had some caveats. The case of Bartz v. Anthropic highlighted that there is a difference between legally obtained books and a library of pirated copies. In Kadrey v. Meta, it was indicated that the outcome may differ if there is a higher level of market harm. Within Munich, however, GEMA v. OpenAI (2025) ruled that memorising song lyrics in a model constituted reproduction. However, this was differentiated by the Delhi High Court based on the facts.

5. Infringement, Authorship and Ownership

There are two issues to consider when analysing the output of an AI. Firstly, whether it infringes. As with any other work, whether a work infringes depends on whether it reproduces a substantial part of the original expression. This is assessed by looking at the overall impression given to an average observer or reader, and does not require comparison of specific sections of the works. It is worth noting that any factual and idea-based expression would not count towards whether one work is substantially similar to another. This meant that the Delhi High Court found that the expression was not substantially similar to ANI, as it summarised news and contained similar factual information. Whether memorisation occurs is also a matter for trial, as the output copies the training text very closely. Secondly, whether the work should be protected and if so, by whom. Section 2(d)(vi) states that a 'computer-generated work' will be authorised by the 'person' who causes the work to be created. However, this does not provide any guidance on who this person is in situations such as when there is a model, developer and user involved. There are three interpretations of who the author is, favouring either the prompt writer(user), the developer or alternatively, denying protection altogether due to the lack of human creativity being too far removed. The DPIIT committee have stated they will look into whether the output can be copyrighted and who the author is in Part II of their Working Paper. However, the sources have not shown this to have been released. The general test for originality applies under Indian Law. In Eastern Book Company v. D.B. Modak, the Supreme Court rejected the sweat of the brow approach and the high standard of creativity.19 They found that there must be 'a modicum of creativity', meaning there must be some skill and judgement put into the work. Therefore, if the user has made several creative decisions in selecting, editing, arranging and improving the output of an AI, then they have a stronger argument than if they have only made a brief prompt. Internationally, the United States Court of Appeals for the District of Columbia Circuit have stated that human creativity is required under the US Copyright Act and denied registration for a work created by an AI autonomously. Under the United States Copyright Office, it has been concluded that only if a human author has included enough expression within the output will it be protected. Therefore, there are three main takeaways from this. Firstly, an AI system cannot be a legal person and therefore cannot be an author or owner. Secondly, when considering any AI-assisted works, there should be a test for human contribution, and the Act should state how much contribution is required. Lastly, without knowing who the author is, we cannot determine who the owner is. If section 17 states that the author is the first owner, then if a work has no recognised author, there will be no first owner. As the moral rights in section 57 belong to the author, there will be no one to attach them to20. Practitioners have correctly highlighted that before a new regime for AI- generated works is developed, there should be clarity around who the author and owner are. 19 Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1; Thaler v. Perlmutter, 130 F.4th 1039 (D.C. Cir. 2025); U.S.

Copyright Office, Copyright and Artificial Intelligence, Part 2: Copyrightability (January 2025). 20 Copyright Act, 1957, ss. 17 and 57.

6. Identity issues: Deepfakes, voice clones, etc

The convergence of social media and AI is evident in deepfakes and voice cloning. A song that is a synthetic version of the vocalist or an advert using a cloned face of an actor, whilst not necessarily infringing upon any specific work, causes an issue with regard to identity. As such, copyright will not address all of the issues. The Act does provide performers with some protection by providing them with a 'right of performance' (sections 38 to 38B), whereby the performer gains unique moral rights of paternity and integrity. However, these rights are specific to performances and do not protect an individual's voice, style, or appearance. There is no explicit statute protecting personality in India, so courts have come up with solutions using principles of passing off, privacy and similar. In cases such as Anil Kapoor (actor) and Arijit Singh (singer), the Delhi High Court and Bombay High Court both protected them from the unauthorised commercial use and AI manipulation of their names, appearances, and voices21. Whilst this is useful, protection has only been given to individuals who are well known and can afford to go to court. If an individual is not as well known, such as a musician or voice actor, they would have few options open to them. The 2026 amendment to the IT Rules provides protection through regulation. Any intermediary facilitating the creation or sharing of synthetic content must ensure that it is clearly marked and has information on its origin. Platforms must also take swift action if they become aware of unlawful synthetic content. However, this only includes audio, visual and audio content and will not address infringement of text created by AI. It also does not address ownership or compensation, but instead focuses on issues of deception and misuse. This means that it does not replace but instead complements copyright and personality rights. The marking will not inform the viewer whether the voice/image was used with permission.

7. Common Structural issues and concerns

There are some common issues across platforms and AI. Firstly, a lack of access to evidence; it is impossible for rights holders to see what a developer has trained their model on. As seen in the AN case. The examples pleaded by the Plaintiff were after the cut-off date for training their AI and could not show that the training data would include their works. This led the court to notice there was "no evidence to demonstrate that the plaintiff's works were used to train the ANI. This means that without any way of looking into the data sets, a rights holder may have no plausible claim to plead, and the issue of burden of proof comes into play. Secondly, developers and platforms may have servers abroad. In the Delhi High Court, it was decided to keep jurisdiction because "the storage of data overseas is merely the last step of a process beginning with access in India, and based on the fact that the owner of the Data resides in Delhi, the Data related to users in India " and the output is produced in India. This can be useful; however, it is very specific, and it may not be possible to enforce any court orders in India against an overseas developer who does not have any presence in India. Thirdly, large publishers and music labels will have the ability to take legal action, licence negotiations, and takedown actions. However, individual photographers, illustrators, writers in regional languages, and voice artists will rarely have this ability. This means that a neutrally worded framework may work to the advantage of those who already have power. Fourthly, provenance and watermarking tools can cause costs. They can be circumvented and can give inaccurate results. As section 65B covers protecting rights holders' info, we

should consider 21 Anil Kapoor v. Simply Life India, 2023 SCC Online Del 6914; Arijit Singh v. Codible Ventures LLP (Bombay High Court, 26 July 2024); Copyright Act, 1957, ss. 38, 38A and 38B. including provenance metadata in the AI content too22. This should be a proportionate technological solution to ensure that smaller creators can use it. Finally, this paper has been careful not to make claims about causality. There is no reliable study cited that shows how much creators in India have lost out from AI systems. Policy documents like the Working Paper are advisory and therefore are not binding. An interim order is not a final judgement. If we looked at creators' earnings pre- and post-generative AI, this would depend on the demand, algorithmic processes of the platform, and overall economic conditions. The arguments for reform in this paper are based around uncertainty and imbalance, which can be shown. However, there is no evidence to show that there has been widespread harm.

8. Recommendations

Parliament should pass legislation on AI training, whatever model is used, to allow training (conditional text and data mining exception, statutory licensing as proposed by the DPIIT or a hybrid system); it should be clearly stated within the act. This should be restricted to works which were obtained lawfully to ensure there is no incentive to bypass technological protection measures under section 65A or use pirated works23. This should also stipulate that compensation should only be given if the work is used for commercial purposes. Furthermore, consideration needs to be given to how to deal with works created using previous training data. There are concerns about fairness and certainty if compensation needs to be provided retrospectively. Developers should be required to retain and disclose a meaningful summary of the content used to train their models. Safeguards should be put in place to protect trade secrets, such as having confidential reviews by the court or regulator. The European Union has put in place similar requirements for general-purpose AI model providers. Without some level of transparency, evidence will still be an issue as discussed in Part

9. This will cause valid claims to fail. Section2(d)(vi) should be clarified. It should be made clear

that only a natural person can be an author. There should be a threshold set for how much human involvement is needed in works created with the assistance of AI. Applicants to register their work should also be required to disclose if their work received substantial assistance from AI. This protects real creators who use AI as a tool and does not give unlimited monopoly over outputs from machines. Accountability of platforms should be improved. A structured process could be implemented that would require specific identification of works. Users should have the right to issue a counter-notice. There should also be repercussions for issuing an abusive notice. Reports on transparency should be made public. Any requirements to stop works from being re-uploaded should only apply to works which have been specifically identified. This follows the knowledge base approach taken in Myspace. Licensing agreements between platforms and copyright societies could help reduce disputes if there was a clear argument for music in short videos. Identity rights should be passed into legislation. Parliament could consider increasing protection for performance by expanding sections 38 to 38B. Alternatively, a new right could be implemented to stop unauthorised synthetic imitation of voice and image. Exceptions could be made for parody, news and public interest. The legislation should be easily available to performers and not just celebrities. This could be done by having an easy complaint process and a specialised bench/ registry. The reforms should be monitored yearly. Useful Indicators would be how long it takes to deal with takedown notices, how many counter-notices are issued and what they result in,

how much royalty is collected and distributed, how many complaints are received from small creators, and how many

22 Copyright Act, 1957, ss. 65A and 65B. 23 Department for Promotion of Industry and Internal Trade (DPIIT), Working Paper on Generative AI and Copyright (Part I): One Nation, One Licence, One Payment (December 2025); Copyright Act, 1957, s. 65A.

AI-assisted works are registered with disclosure. These should be reported in aggregate; works are registered with disclosure. These should be reported in aggregate. Care should be taken when implementing reforms to ensure they are fixing specific issues with the current law and not creating new rights that no one has argued for.

10. Implementation, Remedies, and Research

The key responsibilities lie with Parliament and DPIIT to amend the Copyright Act, the Ministry of Electronics and Information Technology to amend the IT Act and intermediary rules, the Copyright Office to reform the legislation process, the courts to interpret the exceptions and platforms, developers and copyright societies to implement the licensing system. Although there will be some overlap in these duties, they cannot be interchanged. For example, it would be impossible to give rise to rights through intermediary rules if the aim of the policy was to address everything through them. Implementation should be done in stages. It should begin with consultation and understanding how works are being used in practice. Pilot schemes should be carried out with clear targets for both licences and complaints. Costs should be based on evidence. Remedies should be proportionate to the wrong. Infringement of protected expression through the creation of an output/post is addressed by way of injunction, damages, and accounts (section55). In more serious cases, section 63 should be used. Platforms that fail to carry out their duty of due- diligence risk losing their defence under section7924. Imitation of a person's voice or image without permission should be dealt with through passing off, privacy and personality rights. Synthetic media not labelled should be addressed through the IT Rules. A central help desk/triage centre could be established to refer people to the correct remedy. Research should look at various areas. Empirical research could be conducted to see how much generative AI actually replaces the commercial value of specific works. This can be done using license data and surveys to find out how much creators are earning. Technical audits could be carried out to find out how often protected text is memorized and repeated. A comparative study could be done to see how effective the opt-in system implemented in the European Union is for individual creators. The outcome of ANI and the work carried out in Part II of the DPIIT working paper will need new doctrinal analysis. A doctrinal paper like this identifies what rights exist and where there are gaps. However, this cannot replace proper empirical analysis of economic impact.

Conclusion

Social media platforms are covered under Sections 51 and 52, and the safe harbour principle under the IT Act. However, this system is not efficient, lacks protection, and is not designed for AI. Generative AI is a newer technology, and there is nothing in place to cover the training of such systems. There is no exception for training, no machine authorship, and no revenue-sharing mechanism. The Delhi High Court's temporary order in ANI shows that existing exceptions can be extended to cover at least some internal training in AI, where the source is readily available, and there is no evidence of market impact. However, this does not address whether outputs will be used from memory, pirated sources, or with a

more complete body of evidence. The DPIIT's hybrid approach shows the reverse, as it ensures creators will be paid. However. This is not clear on what

24 Copyright Act, 1957, ss. 55 and 63; Information Technology Act, 2000, s. 79; Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Copyright Act, 1957, ss. 55 and 63; Information Technology Act, 2000, s. 79; Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. principles would mean they are paid. This is a conflicting set of approaches that can only be resolved by legislation. The solution to this issue is to ensure there is clear statutory guidance for training and transparent datasets, human authorship, notice-and-takedown mechanisms with accountability, and stronger legal provisions for identity rights. Individually, these are not enough to provide the necessary protection. Without transparency, clarity is difficult to enforce. Without clarity, rights holders will have evidence but not a remedy. Without protection, quick takedowns can stop lawful speech. Ultimately, the challenge for lawmakers is to create a framework to ensure creators can see how their work is being used and receive fair payments. Users can still provide criticism and remedies, and innovators can develop technology with legal certainty.

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