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THE NEED FOR HARMONIZING COPYRIGHT LAWS: INTERSECTION OF TRADITIONAL MUSIC, DIGITAL INNOVATION, AND AI

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ABSTRACT

India is renowned for its rich classical music, which has evolved through a generational lineage of gharanas. The Indian Copyright Act, 1957, protects musical art and creativity in all its forms, which face an extraordinary challenge in protecting this traditional musical legacy in the age of digital sampling, streaming platforms, and AI-generated compositions. Indian Copyright Act, 1957, Section 2(d), 13,17 fails to provide any protection to traditional knowledge and traditional cultural expression, thereby leaving the community-held knowledge vulnerable to digital exploitation by big business houses. Training of AI models without giving any benefit sharing and due credit to gharans or communities exposes traditional classical music to a new threat.

This paper analyses cases such as Ilaiyaraaja v. Echo Recording, Bappi Lahiri v. Universal Music, and Gramophone Co. v. Super Cassettes to help evaluate and understand the development of the concept of moral rights, ownership, and licensing of traditional compositions in remixed and online uploaded content. UNESCO/WIPO are the international organisations working together to protect the intellectual property rights of traditional knowledge and conserve heritage. Despite commitments, the absence of any dedicated regime in India leads to low royalties and exploitation of the traditional artists on Spotify/YouTube. AI companies are using the traditional knowledge of these gharanas and performances to train their AI models without giving due credit to real artists.

Discussion further reveals that Indian courts do recognise the individual identifiable performers, but no such protection is given to gharanas so far. This paper advocates few reforms, such as "sui generis community ownership, sampling guidelines with de minimis thresholds, mandatory

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AI training consent, and blockchain-enabled benefit-sharing," that will ensure protection of traditional knowledge and development of digital innovation. By these means, preservation of traditional cultural music and equitable sharing of the monetary benefits earned by digital platforms can be ensured.

Keywords: Gharana Music, Copyright Authorship, Digital Sampling, AI Infringement, Traditional Cultural Expressions

INTRODUCTION

Copyright protection in India is primarily governed by the Copyright Act, 1957, which lays down the legal framework for safeguarding original literary, dramatic, musical and artistic works, as well as sound recordings and performances.[3] In the musical domain, the statute distinguishes between a "musical work" (the underlying composition, such as melody and harmonies written or conceived by the creator) and a "sound recording" (the recording or fixation of the musical performance on a medium, such as a CD or digital file).[4] This distinction is central to identifying initial ownership and subsequent royalty entitlements, since composers and lyricists typically own rights in the musical work while producers and record labels control the sound recording.[5]

Over time, the Act has been amended several times to respond to technological and market developments and to align Indian law with instruments such as the TRIPS Agreement[6] and the Berne Convention.[7] The 2012 amendment, in particular, strengthened the position of authors of musical and literary works by entitling them to a share in royalties when their creations are commercially exploited through sound recordings, broadcasting or digital streaming.[8] At the same time, the rise of platforms such as YouTube, Spotify, Apple Music and other streaming services has radically altered patterns of music consumption, complicating questions of royalty distribution, unauthorised use and enforcement of rights in the online environment.[9] In practice, collective management organisations such as the Indian Performing Right Society (IPRS)[10] and Phonographic Performance Limited (PPL) have become important intermediaries for licensing and royalty collection in respect of public performances and digital uses of music.[11] Despite these efforts, unauthorised reproduction and online piracy remain persistent challenges.[12]

These difficulties are especially acute for traditional Indian music, which is often created, refined and transmitted collectively within communities and gharanas rather than by clearly identifiable individual authors.[13] Existing

3. Copyright Act, No. 14 of 1957, § 1 (India).
4. Copyright Act, No. 14 of 1957, §§ 2(p), 2(xx) (India).
5. Copyright Act, No. 14 of 1957, § 17 (India).
6. Agreement on Trade-Related Aspects of Intellectual Property Rights, World Trade Org., https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm (last visited June 2, 2025).
7. Berne Convention for the Protection of Literary and Artistic Works, World Intell. Prop. Org., https://www.wipo.int/treaties/en/ip/berne (last visited June 2, 2025).
8. Copyright (Amendment) Act 2012, No. 27, Acts of Parliament (India), https://copyright.gov.in/Documents/Notification_Copyright_Amendment_2012.pdf (last visited June 2, 2025).
9. Int'l Fed'n of the Phonographic Indus. [IFPI], *Global Music Report 2023: State of the Industry* (2023), https://www.ifpi.org/wp-content/uploads/2020/03/GlobalMusicReport2023-StateoftheIndustry.pdf (last visited June 3, 2025).
10. Indian Performing Right Soc'y, https://iprs.org (last visited June 3, 2025).
11. Phonographic Performance Ltd., https://www.pplindia.org (last visited June 3, 2025).
12. IFPI, *supra* note 7; *Digital Music Piracy Trends: Interview with Ms. Melissa Morgia, IFPI*, IPR Ment. L. (Nov. 30, 2022), https://iprmentlaw.com/2022/11/30/guest-interview-in-conversation-with-ms-melissa-morgia-of-ifpi-on-digital-music-piracy-trends-challenges-and-the-way-forward (last visited June 3, 2025).
13. Liora Bresler & Bruno Nettl, *The Study of Ethnomusicology: Thirty-One Issues and Concepts*, 9 Int'l J. Educ. & the Arts (2007), https://www.academia.edu/21188183 (last visited June 4, 2025).

copyright categories do not easily accommodate such community-based creativity, and traditional repertoires frequently fall outside conventional originality thresholds even though they embody significant cultural value.[14] International instruments such as the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage[15] and WIPO initiatives on traditional cultural expressions acknowledge the need to protect such heritage, but India does not yet have a dedicated domestic regime for community-owned rights in traditional music.[16] Consequently, traditional and gharana-based musical practices remain vulnerable to misappropriation and commercial exploitation without adequate participation of, or benefit-sharing with, the communities concerned.[17]

Against this backdrop, the present article examines whether the current Indian copyright framework adequately protects traditional music, especially gharana-based music, in an era of rapid digital and AI-driven transformation. Three areas that are primarily focused on in this research paper are, firstly, the nature and scope of protection of traditional musical expression within the Copyright Act and the relevant international framework for the same. Secondly, this paper will ponder on the question of remuneration and ownership in the age of digitalisation, and lastly, this paper addresses the most important emerging question of authorship of AI-generated music, and liability in case of any infringement of any intellectual property. With reference to case analysis and judicial reasoning, this paper suggests a more harmonised approach for the protection of community interest in traditional music while leaving space open for innovation and technological advancement.

TRADITIONAL MUSIC AND COPYRIGHT PROTECTION

Traditional music constitutes a very crucial part of India's cultural heritage and its collective memory. It is generally created, protected and preserved within communities over long periods of time, the same is closely tied to the local customs, social practices and traditions of the community. Traditional to commercial music, which is produced for the contemporary market, traditional music seeks to evolve gradually and is transmitted orally or by apprenticeship, while preserving an identifiable core identity.

These traditions of music perform several functions all at once. They aid younger generations in connecting with their cultural past as well as provide a medium for storytelling, communal gatherings and ritual performances. Traditional songs usually tend to preserve older dialects, idioms, as well as aesthetic forms that otherwise might disappear, directly making contributions to the linguistic and artistic diversity in the country. They promote social cohesion, as performances typically take place at festivals, ceremonies or community events, which reinforce shared values along with core identities.

From a legal point of view, traditional music still sits uneasily inside the conventional copyright categories. The Copyright Act, 1957, gives protection to original literary, musical, artistic works, and sound recordings, but based on a relatively clear and identifiable "author". Traditional compositions are usually the by-product of collective creativity over the span of several generations; hence, they are not easily attributable to a single person or even a small group at a particular moment in time. As a result of the same, communities which have performed,

14. Anthony Seeger, *Why the Suá Sing: A Musical Anthropology of an Amazonian People*, 9 Lat. Am. Music Rev. 260, 266–67 (1988).
15. Convention for the Safeguarding of the Intangible Cultural Heritage, UNESCO, https://ich.unesco.org/en/convention (last visited June 4, 2025).
16. *Traditional Knowledge and Traditional Cultural Expressions*, World Int'l Prop. Org., https://www.wipo.int/en/web/traditional-knowledge/traditional-cultural-expressions/index (last visited June 4, 2025).
17. Indian Council for Cultural Rels., *Annual Report 2021-2022* (2023), https://iccr.gov.in/sites/default/files/2023-02/Annual%20Report%202021-22_English_Final_2nd%20Jan.%202023.pdf (last visited June 5, 2025)

preserved and nurtured these works often lack the actual formal rights over these underlying compositions, even though the recordings made by producers or performers attract protection by law.

Global frameworks have recognised this tension. Instruments like the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and WIPO's work on traditional cultural expressions recognised the need for protection of community-based cultural production. In India, state agencies and various cultural organisations have already begun documenting as well as archiving traditional musical forms to protect and preserve them, as well as to generate evidence of their true historical roots. Still, there is no dedicated domestic regime which treats traditional music as community-owned intellectual property, and already existing provisions do not completely address the concerns regarding misappropriation, distortion, and commercial exploitation without the process of fair benefit-sharing. This gap has become more serious as digital technologies have made it relatively easier to record, upload and monetise traditional music on an international scale.

INDIAN CLASSICAL MUSIC BASED ON GHARANAS

In the scope of this broader category of traditional music, Indian classical music, which is gharan-based, raises particularly sharp questions for the recognition by law of copyright. A gharana is not only a geographical label; it denotes a tradition based on lineage and style-specific practices, by which musical knowledge is distributed through very rigorous training within a family or a pedagogical line. The gharana structure shapes core features such as repertoire, ornamentation, improvisational approach and performance aesthetics, and is sustained by overlapping networks of disciples, performers and teachers rather than a single originator.

This lineage-based model complicates the legal notion of authorship. When a bandish or composition has been transmitted within a gharana for generations, it is difficult to identify who should be regarded as "author" for the purposes of the Copyright Act. The text and melodic structure may have been adjusted, elaborated or refined by successive gurus and performers, without any clear moment at which a fixed, individually attributable work came into existence. Treating the latest notator or publisher as the sole author risks erasing the contribution of the lineage and the community that preserved and developed the piece over time.

Digital dissemination intensifies these challenges. Live or studio performances of gharana compositions are now routinely recorded and uploaded to platforms such as YouTube and Spotify, often by individual artists, event organisers or labels. The legal rights in these recordings typically vest in the performer and the producer of the sound recording, but the underlying melodic and textual material may be part of a much older gharana repertoire. This raises several questions: whether, and how, the gharana or community should be recognised in law; how moral rights can protect against distortions or misattributions of traditional bandishes; and whether existing performers' rights and producers' rights adequately reflect the collective and intergenerational nature of the tradition.

There are also concerns about collective authorship and benefit-sharing when such recordings generate advertising or streaming revenue.[18] In the absence of a specific regime for community rights in traditional and gharana-based music, platforms and intermediaries can monetise these works without any obligation to consult or compensate the lineages that sustained them. The doctrine of moral rights is not yet tailored to deal with communal interests in preserving the integrity and reputation of a gharana style, and current performer-centric and producer-centric rules do not directly address the claims of communities

18. *Ustad Faiyaz Wasifuddin Dagar v. A.R. Rahman*, (Delhi High Ct. 2025) (unpublished); Soni's Vision, *Recognising Copyright in Traditional Music: Ustad Faiyaz Wasifuddin Dagar v. A.R. Rahman* (2025), https://www.sonisvision.in (last visited June 5, 2025).

whose cultural capital is being commercialised in the digital marketplace.[19]

EXISTING COPYRIGHT FRAMEWORK FOR THE PROTECTION OF TRADITIONAL MUSICAL WORKS

The Copyright Act, 1957, provides the general legal framework for protecting creative expressions in India, including music.[20] Section 13 grants copyright in original literary, musical and artistic works, as well as sound recordings, while Sections 2(d) and 2(p) define the "author" of a musical work and the scope of a "musical work" itself.[18] Section 17 identifies the author as the first owner of copyright, subject to well-known exceptions such as works made in the course of employment or under contract, and later provisions permit assignment and licensing of these rights.

This structure works relatively well for contemporary commercial music, where it is usually possible to identify a composer, lyricist, producer and performer for each work or recording. However, it is far less suited to traditional and gharana-based repertoires. In many of these cases, the composition has evolved within a community or lineage over generations, and there is no clearly identifiable first author in the sense envisaged by Section 17.The originality requirement under Section 13, as interpreted to require identifiable human creativity at a particular point in time, also sits uneasily with works that have been refined gradually and collectively rather than composed as a discrete, time-bound act.

In practice, the Act tends to protect **derivative manifestations** of traditional music—such as studio or live recordings—rather than the underlying traditional repertoire itself. Performers and producers may obtain rights over recorded versions of folk or gharana compositions, but the community or lineage that has preserved and transmitted those compositions usually has no recognised ownership in law. This creates a structural asymmetry: the most vulnerable custodians of traditional music often have the weakest legal claims, while later commercial exploiters enjoy stronger, formal rights.

India is a party to international frameworks that acknowledge the need to safeguard traditional cultural expressions, including music. The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage and WIPO initiatives on traditional knowledge and traditional cultural expressions both emphasise community interests and cultural continuity.[21] Nevertheless, Indian copyright law has not yet developed a specific community-ownership or sui generis regime for traditional musical expressions. Efforts by state bodies and cultural organisations to document and archive traditional music help to preserve these repertoires and provide evidentiary support, but they do not themselves create legal rights for communities comparable to those enjoyed by individual authors and producers under the Copyright Act.[22]

As a result, there is a clear gap between India's international commitments to protect intangible cultural heritage and the narrow, individual-centric structure of its domestic copyright regime. Traditional and gharana-based musical repertoires remain exposed to misappropriation, distortion and commercial exploitation in the digital environment, without any dedicated mechanism for recognising community authorship, enforcing communal moral interests, or ensuring fair benefit-sharing.

19. Riddhaa Bhattacharyya, *Traditional Music and Folklore: Can Indigenous Sounds Be Protected?*, J. Intell. Prop. Rts. (forthcoming 2025).
20. Copyright Act, No. 14 of 1957, §§ 13, 2(d), 2(p), 17 (India).
21. Convention for the Safeguarding of the Intangible Cultural Heritage, *supra* note 13; *Traditional Knowledge and Traditional Cultural Expressions*, *supra* note 14.
22. Found. for Indian Traditional Music [FITM], *Protecting Traditional Cultural Expressions in India: FITM Scoping Paper No. 3*, https://fitm.ris.org.in/sites/fitm.ris.org.in/files/Publication/Scooping%20Paper%20No%203%20(1).pdf (last visited June 5, 2025).

DIGITAL INNOVATION AND MUSIC DISTRIBUTION

Streaming Platforms

Rapid advancement in the era of digital technology has transformed how music is being distributed as well as being consumed. Services like YouTube, Spotify, Amazon Music, Apple Music, along with other streaming platforms, have highly replaced the mechanism of physical sales and downloads with models based on subscriptions and ads. These platforms have allowed artists and labels to reach a bigger international audience instantly, surpassing many logistical constraints such as physical distribution.[23]

Regardless, the revenue models of these streaming services remain controversial.[24] Big labels and catalogues usually receive a disproportionate share of income, whereas independent and niche artists constantly struggle with very low payouts per stream. For the traditional and gharana-based musicians, whose recordings cater to the smaller yet important audiences, it can mean important exposure but at the cost of minimal economic return, particularly where old recordings are uploaded without any clear agreement on royalties and attribution.

Social Media and Virality

Social media platforms such as Instagram, TikTok and YouTube have become powerful tools for promoting and disseminating music. Artists can release performances directly to their audiences, interact with listeners and build communities without relying entirely on intermediaries. User-generated content, remixes and short-form videos regularly push tracks to viral popularity, sometimes catapulting relatively unknown artists into mainstream recognition.

At the same time, this environment encourages widespread reuse, remixing and clipping of musical content, often without formal licensing or even basic credit. For traditional and gharana-based music, short excerpts of bandishes or performances may circulate detached from their context, leading to misattribution, loss of information about the gharana lineage and little or no participation of the original community in any resulting revenue.[25]

Digital Distribution Platforms

Digital distribution aggregators such as DistroKid, TuneCore and CD Baby enable artists to place their music on multiple streaming services without major upfront investment or a conventional label deal. These platforms have lowered entry barriers and given independent musicians greater control over the timing and manner of release of their works.

For practitioners of traditional and gharana-based music, these tools create opportunities to document and share rare compositions, live baithaks and instructional material with a wider public. Yet they also make it easier for third parties—event organisers, students or intermediaries—to distribute recordings of traditional performances without any clear framework for seeking community consent, ensuring proper attribution to the gharana, or structuring benefit-sharing arrangements with the lineages that curate the repertoire.[26]

Blockchain and Smart Contracts

Blockchain technology has been proposed to improve transparency and fairness in music rights management. Decentralised ledgers can record ownership information and usage data, while smart contracts can automate royalty payments when a work is streamed, downloaded or licensed. Pilot

23. IFPI, *supra* note 7.
24. David Hesmondhalgh, *Streaming's Effects on Music Culture: Old Anxieties and New Simplifications*, 16 SAGE J. 3, 7–8 (2022).
25. Luis Aguiar & Joel Waldfogel, *Even the Losers Get Lucky Sometimes: The Effect of Digital Distribution on Independent Artists*, NBER Working Paper No. 34, at 3–4 (2018).
26. Nancy K. Baym, *Playing to the Crowd: Musicians, Audiences, and the Intimate Work of Connection* (2018), https://www.jstor.org/stable/j.ctv12pnpcg (last visited June 6, 2025).

platforms such as Audius and other blockchain-based services experiment with models in which artists can register their works, track exploitation and receive payments without relying entirely on traditional collecting societies or record labels.[27]

In principle, such systems could help traditional and gharana-based artists by providing tamper-resistant records of authorship and performance and by enabling more direct, rule-based revenue flows.[28] In practice, however, these technologies do not yet resolve the deeper legal question of who should be recognised as the right holder when a work is collectively created and transmitted within a gharana, nor do they themselves create any community ownership regime; they risk simply reinforcing individual performer- or producer-centric allocations on a more technologically sophisticated platform.[29]

DIGITAL SAMPLING AND COPYRIGHT ISSUES

Digital sampling – the practice of taking a portion of a sound recording and incorporating it into a new work – has become common in contemporary music production. It enables creative reuse and cross-genre experimentation, but also raises complex questions about ownership, moral rights and licensing. Indian copyright law, centred on the Copyright Act, 1957, does not expressly define sampling or provide a dedicated exception, so disputes are resolved through general rules on reproduction, adaptation and infringement under Section 14 and related provisions.[30]

Ilaiyaraaja v. Echo Recording Pvt. Ltd.

- **Facts**: In *Ilaiyaraaja v. Echo Recording Pvt. Ltd.*, the celebrated composer alleged that production houses and music companies had used his compositions in films and digital media without his permission, including in re-releases and digital versions.
- **Legal issues**: The dispute raised questions about ownership of musical works versus sound recordings, the scope of the composer's economic and moral rights, and whether exploitation in new formats (including digital media) required fresh authorisation or licensing.
- **Reasoning and holding**: The Madras High Court recognised the composer's continuing rights in his musical works and held that unauthorised use, including in digital formats, infringed those rights. The court emphasised that the copyright owner retains control over reproduction and communication to the public, even where earlier contracts or practices may have been ambiguous.[31]
- **Doctrinal principle**: The case reinforces that composers have strong economic and moral claims over the use of their works, and that entities wishing to exploit music in new media (including digital streaming or sampling) must obtain clear authorisation.

27. Hamed Taherdoost, *Smart Contracts in Blockchain Technology: A Critical Review*, 14 Future Internet 117, 117–18 (2023).
28. Kuldeep Vavadande et al., *Blockchain in Web Applications: Decentralised Architectures, Smart Contracts, and Key Use Cases*, in *Proceedings of the 4th International Conference on Ubiquitous Computing and Intelligent Information Systems (ICUIS)* 1443, 1443–49 (2024).
29. *Blockchain and IP*, World Int'l Prop. Org., https://www.wipo.int/en/web/cws/blockchain-and-ip (last visited June 5, 2025).
30. Priya Khalsa & Shikhar Sharma, *A Comparative Study of Copyright Laws in India and USA*, 30 Udyam Vigyati 1, 3–4 (2022).
31. *Ilaiyaraaja v. Echo Recording Pvt. Ltd.*, Mad. 1098 (Madras High Ct.).

- **Relevance for traditional/gharana music**: Applied to traditional or gharana-based contexts, the *Ilaiyaraaja* reasoning suggests that where an identifiable composer or lineage holds rights in a composition, unauthorised digital exploitation or reuse (including sampling in new recordings or online releases) should attract robust protection. Yet, in many gharana cases, the "author" is diffuse, making it difficult to operationalise this protection for the community as a whole.

Bappi Lahiri v. Universal Music

- **Facts**: In *Bappi Lahiri v. Universal Music*, the Indian music director claimed that elements of his song "Thoda Resham Lagta Hai" had been used without permission in the international hit "Addictive" by Truth Hurts, released by Universal Music.[32]
- **Legal issues**: The core issues were whether the foreign song had substantially reproduced protectable elements of the Indian work, and whether the use of those elements in a sampled or adapted form without consent amounted to infringement under Indian and foreign copyright principles.
- **Reasoning and outcome**: The matter was ultimately settled, with Universal Music agreeing to compensate Lahiri for the unauthorised use. Although there is no detailed judicial reasoning, the settlement itself implicitly recognised that sampling of distinctive musical elements from an Indian composition for commercial release could attract liability and require licensing.
- **Doctrinal principle**: The case illustrates that even cross-border sampling of Indian music in international productions will require permission and remuneration, and that Indian authors can assert their rights in global markets.
- **Relevance for traditional/gharana music**: For traditional or gharana-based compositions, this logic would support claims where identifiable melodic or rhythmic motifs from a gharana bandish are sampled into global tracks without consent. In practice, however, communities or lineages often lack formal copyright status or organised representation, making it hard to negotiate licences or pursue remedies when their traditional material is incorporated into international works.

Gramophone Company of India Ltd. v. Super Cassettes Industries Ltd.

- **Facts**: In *Gramophone Company of India Ltd. v. Super Cassettes Industries Ltd.*, Gramophone (HMV) alleged that Super Cassettes (T-Series) had used music from classic Indian film songs in contemporary remix versions without authorisation.[33]
- **Legal issues**: The case concerned whether creating remixes that altered tempo, arrangement, and other elements nevertheless amounted to reproduction of the earlier sound recordings and musical works, and whether such remixes required licences from the original right holders.
- **Reasoning and holding**: The Delhi High Court held that unauthorised remixing or sampling can constitute copyright infringement even where the new version modifies the original. The

32. *Bappi Lahiri v. Universal Music*, 513 F. Supp. 2d 1172 (C.D. Cal. 2007).
33. *Gramophone Co. of India Ltd. v. Super Cassettes Indus. Ltd.*, IIAD 905 (Delhi High Ct.).

court stressed that transformation alone does not negate liability; permission from the relevant rights holders is required for lawful exploitation.

- **Doctrinal principle**: The decision establishes that copyright owners retain control over whether and how their works are remixed, and that producers of remixes or sampled tracks must secure appropriate licences, regardless of the extent of alteration.
- **Relevance for traditional/gharana music**: When recordings of traditional or gharana-based performances are remixed for contemporary markets or digital platforms, *Gramophone's* reasoning implies that the owners of the original recordings are entitled to control and remuneration. Yet the underlying traditional repertoire – often rooted in community or lineage practice – remains largely unrecognised as a separate subject of rights, so communities may see their cultural material remixed repeatedly without any legal role in decision-making.

COMPARATIVE INFERENCES AND IMPACT ON TRADITIONAL/GHARANA REPERTOIRES

Taken together, these cases underline a clear judicial trend: Indian courts and parties treat unauthorised sampling, remixing and re-use of musical works and sound recordings as activities that require consent and can give rise to liability and compensation. At the same time, the Copyright Act, 1957 contains no explicit provisions on digital sampling, no quantitative de minimis rule, and no tailored fair dealing exception for transformative musical reuse. Disputes are resolved under general reproduction and adaptation provisions, leading to uncertainty about what kinds of sampling might be permissible and on what terms.[34]

This uncertainty is particularly problematic for traditional and gharana-based music. Many compositions are treated as part of the cultural commons, yet specific recordings and adaptations are tightly controlled by producers, labels or individual performers. When fragments of traditional bandishes or gharana styles are sampled into films, remixes or international tracks, there is often no recognised community right holder who can be approached for consent or negotiate equitable benefit-sharing. As a result, the current doctrine protects the interests of identifiable authors, producers and labels in relation to sampling and remixing, but offers little to the communities and lineages whose cultural labour created and maintained the underlying repertoires that are now being mined in the digital marketplace.

ARTIFICIAL INTELLIGENCE AND COPYRIGHT CHALLENGES

Authorship in AI-Generated Music under the Indian Copyright Act

Indian copyright law recognises authorship only in human creators. Section 2(d) of the Copyright Act, 1957, defines the "author" of a musical work as the composer, presupposing identifiable human agency.[35] The Supreme Court in *Eastern Book Company v. D.B. Modak* clarified that originality requires a minimal degree of human creativity, skill or judgment.[35] In *Narendra Kumar Jain v. Union of India*, the judiciary reaffirmed that copyright protection hinges on human intellectual effort.[36]

AI-generated music challenges this framework. None of the provisions attributes authorship to the machines, leaving the outputs in legal oblivion. Possible claimants, such as the AI developer who designed the model or the user who generated the prompts and curation, must still demonstrate

34. Khalsa, *supra* note 28.
35. V.K. Ahuja, *Artificial Intelligence and Copyright: Issues and Challenges*, ILI L. Rev. 270, 271–72 (2020).
36. *Narendra Kumar Jain v. Union of India*, 10 SCC 229 (India).

a sufficient level of individual creative input to meet the threshold of originality.[37] In the absence of such input, pure algorithmic compositions cannot qualify for intellectual protection at all. In contrast to the UK's regime for work generated through computers, India has no such equivalent mechanism yet.[38]

For the traditional and gharana music, the same raises parallel concerns such as: if AI models consume gharana recordings to generate the creative outputs, who shall claim authorship over the result of the same, the individual prompter, the AI Company, or the gharana-based lineage whose traditional music was appropriated?[39]

Liability and Infringement within AI Music Training and its Output

Music Systems based on AI are trained on various datasets, inclusive of copyrighted recordings without any explicit authorisation. This practice can be determined as reproduction or adaptation under Section 14; however, India's narrow fair dealing exceptions, as research, criticism and private use, do not explicitly cover commercial training datasets. Generated outputs whichresemblealready existing songs by way of melody, structure or timbre can trigger infringement claims as if they copy substantially protected elements.[40]

Liability results on humans, such as AI developers who train in infringing data, users who generate and distribute derivative works with knowledge or data providers who supply unlicensed material. AI itself has no legal personality. Absence of clear rules on transformative use, along with disputes, will result in substantial similarity and market harm to the original claim holders.[41]

When the same is applied to the traditional or gharana repertoires, these principles result in a bigger problem. AI trained on unauthorised recordings of gharana performances or bandishes risks culturally problematic appropriation, distilling lineage-specific styles into generic outputs without consent, attribution or benefit-sharing with the communities that sustained them. Platforms may then monetise such AI-generated "classical-inspired" tracks, leaving gharanas with no doctrinal recourse despite the erosion of their unique aesthetic identity.[42]

Harmonising Copyright for Traditional Music in the Digital-AI Ecosystem

The doctrinal and case analysis reveals three interconnected tensions in Indian copyright law when applied to traditional, especially gharana-based, music. First, the Copyright Act's individual-centric authorship and originality standards (Sections 2(d), 13, 17) systematically exclude community-held repertoires that evolve over generations, leaving gharanas without formal ownership despite their cultural labour. Second, digital platforms and sampling practices—while expanding access—expose traditional works to unauthorised uploads, remixing and low-royalty exploitation, with cases like *Ilaiyaraaja* and *Gramophone* confirming producer/performer control but not community interests. Third, AI exacerbates these gaps by ingesting gharana recordings for training data without consent, generating derivative outputs that appropriate

37. *E. Book Co. v. D.B. Modak*, AIR 2008 SC 49 (India).
38. S. Alex Yang & Angela Huyue Zhang, *Generative AI and Copyright: A Dynamic Perspective* (Feb. 28, 2024) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4716233 (last visited June 20, 2025).
39. *E. Book Co.*, AIR 2008 SC 49.
40. Daryl Lim, *Generative AI and Copyright: Principles, Priorities and Practicalities*, 18 J. Intell. Prop. L. & Prac. 1, 1–2 (2023).
41. A. Zhuk, *Navigating the Legal Landscape of AI Copyright: A Comparative Analysis of EU, US, and Chinese Approaches*, 4 AI & Ethics 1299, 1301–02 (2024).
42. Haochen Sun, *Redesigning Copyright Protection in the Era of Artificial Intelligence*, 107 Iowa L. Rev. 1213, 1233–34 (2022).

stylistic essence while denying lineages any authorship claims or benefit-sharing.

Current mechanisms—performers' rights (Section 38A), collective management societies (IPRS/PPL), and general infringement remedies—offer partial protection to individuals but fail to address collective authorship, moral interests in stylistic integrity, or equitable revenue distribution from digital/AI uses.[43]

Normative and Policy Analysis

These findings have underscored the need for targeted reforms for the purpose of harmonising the protection of traditional music with digital innovation. Indian law should provide for community rights regulations or a sui generis criterion for expressions based on gharana, recognising the lineage-based collective right holders comprising veto power over unauthorised sampling and AI training or commercial use, remixed with UNESCO/WIPO commitments, which are yet absent domestically.[44]

On the issue of sampling and digital reuse, the Act needs separate explicit guidelines prescribing a de minimis threshold for the purposes of non-commercial transformative uses, compulsory licensing related to commercial remixes, and mandatory attribution to the traditional gharana origins and reducing the uncertainty seen in *Bappi Lahiri* and *Gramophone* cases. Regarding AI, amendments should also mandate consent and remuneration for the purposes of training datasets constituting traditional music, along with liability frameworks specifying developer and user obligations when outputting copies of the already protected styles.

Blockchain and smart contracts could regularise these reforms by enabling tamper-proof registration of the community-held repertoire along with automated benefit-sharing,however, only if the same is paired with the legal recognition of gharana rights. Without such harmonisation, digital platforms and AI firms will continue to profit from traditional cultural works, whereas communities bear the costs of infringement and exclusion. The main objective of this analysis is to evaluate the adequacy of Indian copyright in the context of gharana music in the digital-AI era, and the same is thus affirmed that the framework, although it protects individuals and derivatives efficiently it leaves out the communal origins vulnerable, and the same requires legislative recalibration in order to balance the innovation with cultural equity.

CONCLUSION

This research was set out to evaluate whether India's existing copyright framework adequately protects traditional music, especially in the context of gharana-based traditional work, music in the era of rapid digital innovation, as well as AI-driven transformation. This doctrinal analysis and review of cases confirms that although the Copyright Act, 1957 efficiently protects the identifiable authors, performers and producers, by way of landmark cases like *Ilaiyaraaja v. Echo Recording*,*Bappi Lahiri v. Universal Music*, and *Gramophone Co. v. Super Cassettes*, the law yet systematically fails to protect the community-held repertoires which form the basis for gharana traditions.

Three main objectives have been adequately addressed. Firstly, traditional musical expressions fall outside the scope of Sections 2(d), 13 and 17's individual authorship along with standards of originality, despite India's UNESCO and WIPO commitments.[45] Secondly, the digital platforms have exposed the gharana compositions to unauthorised uploads, digital sampling, along with low-royalty payouts and exploitation, with judicial cases safeguarding derivatives but not the communal origins. Thirdly, AI models which are trained on the gharana recordings without consent

43. Copyright Act, No. 14 of 1957, § 38A (India); Indian Performing Right Soc'y, *supra* note 8; Phonographic Performance Ltd., *supra* note 9.

44. FITM, *supra* note 20; Model Provisions on Traditional Cultural Expressions, World Int'l Prop. Org., https://www.wipo.int/edocs/pubdocs/en/tk/913/wipo_pub_913.pdf (last visited June 4, 2025).

45. Anthony *Supra* note 13,19.

appropriate the essence of style, generating the liability uncertainties under the present infringement regulations.[46]

To harmonise the AI and traditional music in the digital era, four concrete reforms are proposed:

- **Community rights regime**: Amend the Copyright Act to recognise gharanas/lineages as collective right holders for traditional repertoires, with veto power over unauthorised AI training, sampling or commercial remixing.[47]
- **Sampling guidelines**: Introduce de minimis thresholds, compulsory licensing for transformative remixes, and mandatory gharana attribution to reduce uncertainty in digital reuse.
- **AI-specific provisions**: Mandate consent/remuneration for training datasets containing traditional music, clarifying developer/user liability when outputs mimic protected styles.
- **Technological enablers**: Promote blockchain/smart contracts for tamper-proof community registration and automated benefit-sharing, integrated with legal recognition of collective rights.

These measures would balance cultural preservation with innovation, ensuring gharana communities participate equitably in the digital-AI economy. In the absence of such reforms, traditional music risks erosion as digital platforms and algorithms profit from cultural capital built over generations.

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