

CROWDSOURCED CREATIVITY AND COLLECTIVE COPYRIGHT: LEGAL GAPS IN COLLABORATIVE CONTENT CREATION ON SOCIAL PLATFORMS

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ABSTRACT

The rise of digital platforms has promoted a new wave of crowdsourced creativity, with users collaboratively producing content such as reels, memes, duets, and co-authored posts. This opening up of content creation to everyone is important, but it also brings up legal issues, especially when it comes to copyright ownership and licensing. Traditional copyright frameworks designed for clearly defined authorship struggle to accommodate the fluid, multi-contributor nature of social media content. In India, the Copyright Act, 1957 recognizes joint authorship but fails to adequately address collaborative digital works where individual contributions are often indistinct. This paper explores the legal gaps in Indian copyright law relating to collaborative content creation on social media. It analyses how current definitions of authorship and ownership are ill-suited to the dynamics of online co-creation and identifies resulting uncertainties in rights and licensing. A comparative study with South Africa and U.S. legal frameworks highlights how other jurisdictions approach joint authorship, offering insights into potential reforms. Using doctrinal legal research, case law analysis, and platform terms of service, this paper evaluates the effectiveness of current protections for creators in the digital space. It ultimately proposes legal and policy reforms to better define co-authorship, facilitate fair licensing, and ensure equitable recognition and remuneration for all contributors. The goal is to modernize copyright law in India to meet the evolving realities of digital collaboration.

KEYWORDS: Crowdsourced Content, Joint Authorship, Social Media, Copyright Act, 1957.

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INTRODUCTION

Crowdsourced and collaborative content is an output of the cooperative and voluntary efforts of a number of individuals. Traditionally speaking, this content involves traditional cultural expressions (*TCEs*) like tribal songs, dance, etc., but the 21st century has witnessed the digital aspect of collaborative content, including reels, memes, response videos, duets, or music, dance, and visual media in the context of social media and participatory digital platforms. This type of content has shown some resemblance to joint authorship content, but the quality of unplanned and asynchronous production differentiates it from collaborative content. The concept of “communal authorship” contradicts the conventional copyright legal paradigms, which are based on the idea of a single or easily identified author.

In India, the domain of copyright is governed by the Copyright Act of 1957, which defines author under section 2(d) according to which it defines author in the context of the type of content such as when creator of music is addressed as composer while the word author is used for the producer of literary work.⁴⁴¹ Section 17 generally considers the first author of the work as the owner of the work, except in the case of commissioned work.⁴⁴² designates the author as the primary copyright owner. Further, section 2(z)⁴⁴³ mentions the idea of work of joint authorship but it only talks about the content which is the result of common design and where the contribution of authors is inseparable. The crowdsourced and collaborative content is informal and involves large-scale collaboration, which challenges the application of the present copyright framework to this type of content.

The existence of this loophole causes widespread uncertainty, especially where contributions are distributed or aggregated over time. As of now, there is no determined way of claiming authorship for this type of work. Moreover, in the era of YouTube and Instagram, where collaboration-friendly work is prevalent, the terms of service sometimes allow the withdrawal of default licenses that may intervene with the rights of the creator as there is no full-fledged agreement between the parties. As a result, even where their contribution is essential to the value and popularity of the work, they may not be sufficiently credited or have any control over it. This study responds to three general research questions. First, within the Indian copyright statute i.e., Sections 2(d), 2(z), and 17—what law identifies co-creators? The second question pertains to the regulation of contributor rights and collective authorship in collaborative digital

⁴⁴¹ The Copyright Act, 1957 (14 of 1957) s 2(d)

⁴⁴² The Copyright Act, 1957 (14 of 1957) s 17

⁴⁴³ The Copyright Act, 1957 (14 of 1957) s 2(z)

works by worldwide conventions in nations like the United States and South Africa. Lastly, the third question is what changes are required in order to bring harmony between the new realities of content co-creation in the digital age and current copyright principles. This article attempts to shed light on the changing nature of collective copyright by way of a doctrinal analysis of Indian law, a comparative analysis of other possible legal frameworks, and an investigation of platform-specific behaviour. With innovation in an age where it is more and more dependent on collaboration and crowdsourcing, it also makes legislative and policy changes that will strengthen digital creators, guarantee equitable attribution, and foster fair licensing practices.

COLLABORATIVE CONTENT IN CONTEMPORARY INDIA

In this digital world, With the emergence of social media collaborative content creation has also spiked, including co-authored videos, in which multiple creators contribute to a single piece of work through iterative enhancements, and mashups, where works from different sources are combined to produce a new content, and memes, which are cultural symbols or ideas that spread virally and are frequently modified by multiple users and open design, in which designs are shared publicly for anyone to contribute or modify. These examples show that apart from TCEs and Indigenous works, a new category of digital collaborative content is in the game now.

Almost every task on social media involves the use of extensive algorithms, and Digital Collaborative content creation is no exception to this rule. These algorithms on social media are the one that determines the visibility of collaborative content, and this is based on user behaviour. As an example, social media algorithms prioritise highly interacted content, which serves as an encouragement for authors to collaborate. Beyond content manipulation, these automated social curators dictate user interactions with content, determining the frequency and nature of collaborations.

As already mentioned, Authorship and ownership of creative works in India are governed under the legal framework of the Copyright Act of 1957.

According to the Act's Section 2(z)⁴⁴⁴, "Work of joint authorship" means a composite work resulting from the collaboration of two or more authors in such a manner that one author's contribution is blended into the whole. This implies that, unless otherwise agreed, all

⁴⁴⁴ Copyright Act 1957, s 17 (n 3)

contributors to a work under joint authorship are equal stakeholders in that work. The Act does not attempt to clarify collective works.

For an analogy, the content in the encyclopedia is not indistinguishable, but these disparate pieces of work are compiled to form a collective whole, and each author has separate rights regarding their contribution; now we can refer to this work as a collective work. But, according to the authors, India's position is underdeveloped in dealing with such a type of content as its legal framework lacks a precise definition of content where individual contributions are distinct yet interwoven.

CRITERIA DEFINING COMMUNAL AUTHORSHIP

Prima facie, both the joint authorship content and Crowdsourced or collaborative digital works appear similar, but later works are the output of community-based creativity where the contribution of one author can be separated from the other and where there is no common design in the minds of the creators. Such works rely on communal participation and sharing and are typically distributed outside the commercial arena of traditional production.⁴⁴⁵ In practice, we all see memes that are actually a picture of some cricket match or movie but later when they become the post on a social media app like Instagram, then the users of such social media apps do some work upon it to make something out of it and such works are further modified by multiple individuals for different purposes just by editing either a word or using the previous edit to make a new one, such wide accessibility and re-sharing of such content have the wide role in the formation of digital collaborative contents.⁴⁴⁶ These projects grow through separate, asynchronous contributions: one user might remix a video, another adds music or text, and still, others can further modify the result, each contribution augmenting the evolving piece. This dynamic development and collaborative process, where individuals build on one another's contributions without a common design is the hallmark of crowdsourced creativity, which has no common design, and the contributions are separable, and there is a stage where one can say that this is the final work

The components that set the yardstick for content as communally authored are numerosity, informality, temporality and intentions, which are discussed as follows;⁴⁴⁷

⁴⁴⁵ Rachel Maguire, "'It doesn't belong to the internet': copyright reform for user-generated content' (2022) 3 *Intellectual Property Quarterly* 141

⁴⁴⁶ *Ibid*

⁴⁴⁷ Aman K Gebru, 'Communal Authorship' (2024) 58 *University of Richmond Law Review* 337

- **Numerosity:** Crowdsourced and collaborative content usually involves a large, indeterminate number of contributors. Unlike joint authorship, where the number of contributors can be determined, the numerosity in this category of content can range from hundreds to thousands, as seen in viral meme chains or Instagram reels.
- **Informality:** This refers to the absence of any formal understanding or agreement between the contributors regarding the development of the content, and the process is casual, often driven by platform affordances (like Instagram's remix or YouTube's duet tools), without contractual or creative agreements. For instance, the meme makers work on the already existing work without any formal agreement with the primary producer of such content.
- **Temporality:** Contributions are made asynchronously over time. One user may begin a trend or base clip (e.g., a dance or comedy skit), followed by waves of responses, remixes, or duets that build upon it, which constitute a derivative work, a pattern common in Indian Reels and short-form videos.
- **Intention:** This presents the idea that crowdsourced and collaborative content lacks a common design regarding the content and contributors work independently. Their contributions are responsive and additive rather than planned. There is no common vision among all the contributors, and the work evolves through iterative modifications.

The 2024 parody video by Ajey Nagar (CarryMinati), which included fourteen well-known Indian creators⁴⁴⁸, is a prime example of numerosity because it was produced by a sizable group of independent contributors, each of whom played a unique role. The contributors were not a part of a consistent creative team, even though the finished product looked like a single, cohesive video. The fact that their involvement was not specified in the contract emphasises how informal the arrangement was. The fact that each creator recorded their part separately, frequently without a shared script or planned rehearsal, demonstrates that the goal was responsive and improvisational rather than collective from the start. Since the clips were probably recorded asynchronously and assembled later rather than being co-created in real time, the collaboration also reflected temporality. Additionally, users commonly use Instagram Reels Remix features to keep their own videos on top of pre-existing ones, especially since TikTok was banned in India. Because users hardly ever ask the original creators for permission before interacting with their content, this creative behaviour is characterised by informality.

⁴⁴⁸ ET Online, 'CarryMinati Leads India's Ultimate YouTube Collab in a Must-Watch Mr. Beast Spoof' (*The Economic Times*, 23 October 2024)

<<https://economictimes.indiatimes.com/news/new-updates/carryminati-leads-indias-ultimate-youtube-collab-in-a-must-watch-mr-beast-spoof/articleshow/114516418.cms>> accessed 25 May 2025

Temporality is crucial; the duet is frequently created days or even weeks after the original video, and the final products are developed gradually over time. These contributions demonstrate the lack of a shared goal because they are made separately and without prior planning. When a well-liked reel inspires hundreds or thousands of remixes, each slightly changing or enhancing the original performance, this is known as numerosity.

Research on digital remix culture in India finds that amateurs and teenagers now freely form online remix communities, adding “expressive, political and entertainment content” to existing works. In sum, crowdsourced creativity replaces the lone, intentional creator of traditional authorship with a diffuse, participatory process.⁴⁴⁹ Because so many social-media works emerge from collective tinkering rather than a single author’s plan, they often do not fit neatly into the legal notion of a single author’s work, challenging conventional copyright assumptions.

LEGAL ISSUES IN COLLABORATIVE CONTENT

We have already taken a glimpse of the concept of authorship and joint works under the Indian Copyright Act, 1957. We are now moving forward to showcase the legal problems that arise when multiple content producers start collaborating informally on social media like YouTube, and Instagram. This type of content creation gives rise to multiple problems, including the absence of formal agreement, the absence of a common design, separability of contributions, and overlapping contributions, which makes it hard for this type to fit into the Copyright Act’s traditional categories.

While, some of the collaborative digital content, which remains on the cycle of modification, can be filtered out at a very earlier stage on the basis of their substantial similarity with the previous content, which can be determined by analysing the views of the reader or spectator on that work⁴⁵⁰, this initial process can at the very beginning reduce the number of authorship claims over the collaborative contents.

But as we have discussed, the problem comes while looking at the application of the present copyright framework to this type of content. In this context, the non-applicability of section 2(z) (legal criteria for joint authorship) to such separable and informal content, as this section sets the yardstick of a work to be jointly authored when it is inseparable. This creates a void with regard to the ownership, licensing, and monetisation of crowdsourced and collaborative

⁴⁴⁹ Priyansha Agarwal, ‘Copyright Infringements in the Digital Age of Remix Culture’ (SSRN, 1 February 2024) <<https://ssrn.com/abstract=4894187>> accessed 25 May 2025

⁴⁵⁰ *Ibid*

content. Additionally, it obscures the rights of individual creators, such as their right to credit and immunity from disparaging remarks.

This ambiguity over the ownership and attribution of collective works cannot be addressed by conforming this creation with the restrictive definitions of the present copyright framework which has missed out on the concept of crowdsourced and collaborative creations for example according to section 2(d), an author is a person who initially records, transcribes or publishes the text with originality and such person acquires ownership as well, now applying this to the collaborative content would harm the rights of the person who has further contributed to the work. In the case of *Rupendra Kashyap v. Jiwan Publishing House*⁴⁵¹ The Delhi High Court allowed copyright to a publisher who altered exam questions, even though they were created by several anonymous setters. Sections 23⁴⁵² and 24⁴⁵³ of the Act treat works in which no creator can be recognized as anonymous or pseudonymous, thereby initiating a 60-year copyright term from the date of first publication and in case only one author is revealed than 60 years from the death of that author while in case of revelation of multiple author then 60 years from the date of the death of last surviving disclosed author. By granting rights to the initial publisher.

In case the author of the work is dead or cannot be traced, Section 31A⁴⁵⁴ of the Copyright Act permits a third party to request a license from the Copyright Board for publishing the work. Now these sections can have an effect on the licensing of the crowdsourced and collaborative work but in such cases the publication of such work, by the third party, is no longer the matter of right of the author and the right of licensing shifts to the Copyright Board, which weakens the licensing rights of the undetermined author of collaborative content. But without consent or fair benefit-sharing, this framework harms the crowdsourced and collaborative content and permits third parties to commercialise this content, as instead of author of the work, the board will decide in such cases. This shows the void in the Indian law in dealing with such a type of content. Therefore, there is a legislative gap in the protection of collective creation because the current copyright doctrine favours the fixer over the inventor.⁴⁵⁵

⁴⁵¹ *Rupendra Kashyap v. Jiwan Publishing House (P) Ltd*, 1993 SCC OnLine Del 660

⁴⁵² The Copyright Act, 1957 (14 of 1957) s 23

⁴⁵³ The Copyright Act, 1957 (14 of 1957) s 24

⁴⁵⁴ The Copyright Act, 1957 (14 of 1957) s 31A

⁴⁵⁵ ICSI, *Intellectual Property Rights and the Law and Practice of Copyright in India* (The Institute of Company Secretaries of India 2020)

<https://www.icsi.edu/media/webmodules/FINAL_IPR&LP_BOOK_10022020.pdf> accessed 25 May 2025

In the context of licensing and royalties, the Bombay High Court has decided that joint authors must collectively approve any licensing or distribution and cannot use such works for their own benefit.⁴⁵⁶ But there is no clarity given by any court on whether this principle would apply to crowdsourced and collaborative content. Unilateral licensing by one party may be considered infringement in the context of collaborative output like YouTube or Instagram, when contributors may not have any contractual understanding. Commercialisation is hampered by this legal requirement; remix videos or compilations including several inputs need permission from each source, and any unapproved licensing could result in legal action. Additionally, producers frequently provide broad, royalty-free licenses by uploading their work.⁴⁵⁷ For example, unless the author is a member of YouTube's Partner Program, YouTube is permitted by its Terms of Service to copy, distribute, and alter submitted videos without having to pay royalties. Similar contracts are used by Instagram, which gives them free and extensive rights to user-generated content. As a result, most creators have few financial or legal options and must negotiate complicated license landscapes.

In addition to economic rights, creators have certain protection under Section 57 moral rights. The right to assert authorship and the right to protest alterations or distortions that damage an author's honour or reputation are both recognised by Indian copyright law. These rights are enforceable by successors and endure long after economic rights are transmitted. Each contributor has their own moral rights when creating joint content. For example, according to section 57(1) (a) of Copyright Act⁴⁵⁸, a co-creator may bring a lawsuit if they are not given credit. The Jasleen Royal controversy is relevant here as in this case, the artist claimed that her song was utilised without giving any credit, which underlines the importance of the right to recognition. The problem of credit denial or damage to one's reputation due to deletion or illegal editing remains unresolved. In certain situations, authors might have to depend on criminal legislation, such as Section 63⁴⁵⁹ of the Copyright Act, which punishes false claims of authorship, or contract law.

This legislative loophole makes co-creators dependent on unwritten rules and goodwill, but these can fall apart, and only legislative action in this direction can alleviate their position.

⁴⁵⁶ Elite Legal, 'Copyright Enforcement in Digital Environment: Indian Perspective'

<<https://elitelegal.in/copyright-enforcement-in-digital-environment-indian-perspective/>> accessed 25 May 2025

⁴⁵⁷ *Ibid*

⁴⁵⁸ The Copyright Act, 1957 (14 of 1957) s 57(1)(a)

⁴⁵⁹ The Copyright Act, 1957 (14 of 1957) s 63

Particularly, in projects that are for profit.⁴⁶⁰ In conclusion, there is much ambiguity on the application of copyright law in this arena of intellectual property. The needs of platform-based creation, where rights are distributed, attribution is flexible, and content is constantly remixed, have not yet been addressed by the legal system. Therefore, in order to provide equitable ownership, licensing, and moral protections for all contributors in the digital era, India's copyright policy needs to reconsider how it handles collective and collaborative innovation.

COMPARATIVE LEGAL APPROACHES TO COMMUNAL AUTHORSHIP: SOUTH AFRICA, UNITED STATES, AND INDIA

The legal recognition and protection of communal authorship where creative works emerge from collective, often intergenerational, contributions vary significantly across jurisdictions. This section undertakes a comparative analysis of the positions adopted by South Africa and the United States, contrasted with the prevailing legal framework in India.

SOUTH AFRICA'S APPROACH

South Africa has adopted a progressive legislative approach to communal authorship through the Protection, Promotion, Development and Management of *Indigenous Knowledge Act, 2019 (IK Act)*.⁴⁶¹ This sui generis framework has been introduced to meet the needs of indigenous communities and their cultural expressions. The memorandum of the IK Act recognises Indigenous communities as lawful custodians and owners of their traditional knowledge. It offers a comprehensive framework that includes registration of indigenous knowledge, mechanisms for equitable benefit-sharing, mandatory prior informed consent, and protection of communally generated works.⁴⁶² Additionally, the *Intellectual Property Laws Amendment Act, 2013 (IPLAA)* integrates Indigenous knowledge protections into existing IP regimes by recognising communities as authors and rights holders of "Indigenous works" and establishing community rights even in derivative works.⁴⁶³ Through national trust mechanisms, protocols,

⁴⁶⁰ WIPO, 'Copyright, Competition and Development' (World Intellectual Property Organization) <https://www.wipo.int/documents/743993/747687/copyright_competition_development.pdf/20477f75-6f4e-332a-20c8-6759e3dc32bb?version=1.2&t=1671199896643> accessed 25 May 2025

⁴⁶¹ Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019 (6 of 2019)

⁴⁶² Margo A Bagley, 'Toward an Effective Indigenous Knowledge Protection Regime: Case Study of South Africa' (2018) CIGI Paper No 207, Centre for International Governance Innovation

<<https://www.cigionline.org/publications/toward-effective-indigenous-knowledge-protection-regime-case-study-south-africa/>> accessed 25 May 2025

⁴⁶³ *Ibid*

and consent-based access, South Africa ensures both recognition and agency for Indigenous communities in controlling and benefiting from their cultural heritage.⁴⁶⁴

UNITED STATES APPROACH

In contrast to South Africa, the United States does not have a sui generis framework for protecting communal authorship. The U.S. Copyright Act⁴⁶⁵ primarily revolves around individual and joint authorship, requiring a human author to claim copyright protection. Communal works, such as Native American folklore, traditional art, and rituals, often do not qualify for copyright protection because they lack a specific author or fail to meet the originality and fixation requirements. While there have been policy discussions and academic advocacy for the protection of *Indigenous Cultural and Intellectual Property (ICIP)*, there is no binding federal statute granting collective rights to communities. Some protections are afforded through cultural preservation laws like the *Native American Graves Protection and Repatriation Act (NAGPRA)*⁴⁶⁶ and the *Indian Arts and Crafts Act*⁴⁶⁷. But these focus more on cultural integrity and misrepresentation than on intellectual property rights. Efforts are also underway in certain states and among tribal nations to develop community-based legal frameworks, but these are fragmented and not federally codified.

BERNE CONVENTION APPROACH

Apart from the national approaches, The *Berne Convention for the Protection of Literary and Artistic Works*, established in 1886, stands as a cornerstone of international copyright law and India has adopted this convention. This convention provides valuable guidance in dealing with communal and digital co-authorship works.

Article 15 of the Convention is based on presumptions of authorship that can serve to clarify attribution in cases of anonymous, pseudonymous, or collectively created works.

Specifically, Article 15(1)⁴⁶⁸ presumes that a person whose name appears on a work is the author, even when using a pseudonym that clearly identifies them. This presumption can be extended to digital platforms, where usernames or handles serve a similar function. Article

⁴⁶⁴ South Centre, 'Protection of Indigenous Knowledge: South Africa's Sui Generis Approach and Continental Developments' (2024) South Centre Policy Brief No 263

< https://www.southcentre.int/wp-content/uploads/2024/05/SV263_240501.pdf> accessed 25 May 2025

⁴⁶⁵ Copyright Act of 1976, 17 USC (1976) (US)

⁴⁶⁶ Native American Graves Protection and Repatriation Act 1990 (Pub L No 101-601)

⁴⁶⁷ Indian Arts and Crafts Act, 1990 (Pub L No 101-644)

⁴⁶⁸ Berne Convention for the Protection of Literary and Artistic Works (as amended on 28 September 1979) art 15(1)

15(2)⁴⁶⁹) applies this logic to cinematographic works, recognizing the named individual or entity as the maker. Article 15(3)⁴⁷⁰ allows the publisher to act on behalf of an unknown author until their identity is revealed, while Article 15(4)⁴⁷¹ mandates domestic laws to designate a competent authority to represent the rights of unknown authors in unpublished works, which is similar to the concept of creating trust for maintaining this content.

COMPARATIVE ANALYSIS

Berne Convention, though not talks about digital collaborative content but its idea of providing the competent authority for an unattributed collaborative content and providing the attribution in case of cinematographic work, could have helped India in developing a well suited framework for crowdsourced and collaborative content. But India, like the United States, currently lacks a dedicated statutory framework for communal authorship. The governing law, the Copyright Act, 1957⁴⁷², is designed around the individualistic model of authorship. While it provides for joint authorship under Section 2(z)⁴⁷³ and recognises anonymous and pseudonymous works under Section 23⁴⁷⁴, these provisions are not well-suited to capture the collective, intergenerational nature of communal works. In India, traditional knowledge and folklore often undocumented and community-owned do not enjoy robust IP protection. The first entity or person to document or fix such knowledge often becomes the copyright holder, side-lining the originating community. Initiatives like the *Traditional Knowledge Digital Library (TKDL)* aim to prevent misappropriation, particularly in the domain of bio-patents, but they do not confer authorship or ownership rights to the communities.⁴⁷⁵ The Geographical Indications of Goods (Registration and Protection) Act, 1999,⁴⁷⁶ provides some recognition to community-linked products but is limited in scope and does not fully address the broader issue of communal authorship.

The comparison highlights how different levels of recognition are given to work of the communal authorship. This South African framework is an example of a mature and community-centred model that not only recognizes communal authorship but also establishes

⁴⁶⁹ Berne Convention (n29) art 15(2)

⁴⁷⁰ Berne Convention (n29) art 15(3)

⁴⁷¹ Berne Convention (n29) art 15(4)

⁴⁷² The Copyright Act, 1957 (n1)

⁴⁷³ The Copyright Act, 1957 (n3)

⁴⁷⁴ The Copyright Act, 1957 (n1) s 23

⁴⁷⁵ Traditional Knowledge Digital Library, 'About TKDL'

<<https://www.tkdil.res.in/tkdil/LangFrench/common/Abouttkdil.asp?GL=Eng>> accessed 25 May 2025

⁴⁷⁶ Geographical Indications of Goods (Registration and Protection) Act 1999 (Act 48 of 1999)

a benefit-sharing model, community agency, and national trust for Indigenous knowledge.⁴⁷⁷ The United States, while lacking a dedicated communal authorship statute, has at least begun to engage with the policy implications through cultural heritage protection and misrepresentation laws. India, however, remains primarily confined to an individual-centric copyright model, offering minimal legal acknowledgment or protection to the community-based origins of traditional cultural expressions. This disparity highlights the urgent need for India to reform its intellectual property laws to incorporate a *sui generis* model that accords legal recognition to communities as collective authors, includes perpetual protection for traditional knowledge, and establishes equitable benefit-sharing mechanisms, similar to the South African approach.

RECOMMENDATIONS

To effectively safeguard communal authorship in India's budding digital creative ecosystem, a multifaceted approach is required, for which lessons can be drawn from South Africa's *sui generis* framework.

Firstly, to address the complexities surrounding communal authorship and collaborative creative works, it is important to establish a legal framework that recognises and allocates rights to contributors proportionally, based on their individual contributions. This approach ensures that each contributor is acknowledged as the author of their specific contribution, thereby granting them distinct rights pertaining to authorship, ownership, licensing, and royalties. This step reflects the idea of the Supreme Court in *Eastern Book Company v. D.B. Modak*, where the Court ruled against the idea for every contribution and observed that *only those who add a substantial contribution* should be recognized as authors. Such a framework would not only uphold the principles of fairness and transparency but also encourage collaborative creativity by assuring contributors that their individual efforts are legally protected and justly compensated.

Secondly, establishing a *sui generis* legal framework tailored to address the problems in communal digital creations such as memes, collaborative videos, and reels is crucial. South Africa's implementation of the Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019⁴⁷⁸ and adoption of the Swakopmund Protocol, which ensures

⁴⁷⁷ Camille Meyer and Kiruben Naicker, 'Collective intellectual property of Indigenous peoples and local communities: Exploring power asymmetries in the rooibos geographical indication and industry-wide benefit-sharing agreement' (2023) 52(9) Research Policy 104851

<<https://doi.org/10.1016/j.respol.2023.104851>> accessed 25 May 2025.

⁴⁷⁸ Protection, Promotion, Development and Management of Indigenous Knowledge Act, 2019 (n 33)

that any use of TCE is subject to prior informed consent and benefit-sharing agreements, along with creation of registers and databases of TCEs, which serve both as a tool for documentation and as a legal reference to assert rights over these expressions.⁴⁷⁹ Adopting a similar approach in India for crowdsourced and collaborative authorship can lead to the formation of a more structured framework for communally authored works.

Thirdly, the creation of dedicated trusts or agencies that will register, manage and oversee communal digital content can address challenges related to rights management and benefit-sharing.⁴⁸⁰ In South Africa, these organisations look out for the interests of Indigenous communities, regulate usage rights, and ensure that the benefits of TCEs are fairly shared. Establishing similar institutions in India would provide structured model for licensing, permissions, and revenue distribution, ensuring fair compensation for all contributors.

Fourthly, implementing benefit-sharing mechanisms is essential to ensure that creators are fairly compensated for their contributions to communal digital content. South Africa's legal frameworks emphasise equitable benefit-sharing with communities contributing to TCEs. India can adopt similar models, including revenue-sharing arrangements and licensing fees, to acknowledge the collective effort involved in creating digital works.

Lastly, capacity building and community engagement are vital for the sustainable protection of communal authorship. South Africa's approach includes educational programs and community initiatives to raise awareness and empower communities to safeguard their heritage.⁴⁸¹ India can implement similar strategies by conducting digital literacy programs and workshops focused on rights management and the importance of protecting communal digital creations. Engaging communities in the governance of their digital content fosters a sense of ownership and responsibility, ensuring that communal authorship is preserved and respected in the digital age.

CONCLUSION

The rapid growth of collaborative content creation on platforms like YouTube, Instagram, and Indian short-video apps has exposed significant gaps in India's Copyright Act of 1957, which

⁴⁷⁹ Parvathy Menon and Valarmathi R, 'A Comparative Study of the Existing Laws Governing Traditional Cultural Expressions' (2025) 7(1) International Journal for Multidisciplinary Research <<https://www.ijfmr.com/article/IJFMR250135975.pdf>> accessed 25 May 2025

⁴⁸⁰ *Ibid*

⁴⁸¹ Caroline B Ncube, 'The Protection of Traditional Knowledge and Cultural Expressions: South Africa's National Experience and Lessons for the International Process' (South Centre, 1 May 2024) <https://www.southcentre.int/wp-content/uploads/2024/05/SV263_240501.pdf> accessed 25 May 2025

was designed for an era of individual authorship. This study identifies three key issues: *First*, the Act's rigid definitions of authorship and ownership create confusion in collaborative projects. In *Rupendra Kashyap v. Jiwan Publishing House*⁴⁸², the Delhi High Court granted ownership to publishers rather than creators, highlighting this bias. Additionally, the criteria for "joint authorship" under Section 2(z) are impractical for remix-type content, where contributions are sequential and distinct, and leaving collaborative creators vulnerable to disputes over attribution and control. *Second*, licensing and royalty systems are ill-equipped for the digital age. Social media Platforms aggravate this issue by imposing unilateral terms; for instance, YouTube's royalty-free agreements exploit legal loopholes, depriving creators of fair compensation and stifling innovation. *Third*, the law fails to protect collaborative creativity, where the contribution are separable and there is no common design. This oversight permits cultural appropriation, as seen in cases where companies exploit local art forms without community consent. Despite academic calls for unique frameworks to protect crowdsourced and collaborative content India's legislative inaction perpetuates inequality.

To address these challenges, author is suggesting some reform strategy which includes giving the attribution for the creator's contribution, where the rights are restricted to his contributions, the sui generis framework can be adopted for addressing this loophole as done in the South Africa for TCEs, dedicated trusts or agencies that will register, manage and oversee communal digital content and adoption of benefit-sharing mechanisms will ensure that creators are fairly compensated for their contributions to communal digital content.

The Supreme Court's approach in *Eastern Book Company v. D.B. Modak*⁴⁸³ provides substantial value for the first recommendation, where the Court has emphasized the concept of authorship on substantial contribution and further other recommendations are imbibed from the international frameworks, especially South Africa, which has a dedicated framework for communal authorship content. These reforms are crucial for India's \$1.3 billion digital creator economy, where 80% of creators express uncertainty about ownership rights.⁴⁸⁴ By integrating the interests of platforms, fixers, and originators, policymakers can support an environment that encourages innovation while preserving cultural integrity. Until changes are not made in the present Copyright framework, outdated regulations will continue to impede creativity, leaving India's digital storytellers constrained by outdated laws. A paradigm shift is needed to

⁴⁸² *Rupendra Kashyap v Jiwan Publishing House Pvt Ltd* (1996) 38 DRJ 81 (Del HC)

⁴⁸³ *Eastern Book Company v D B Modak* AIR 2008 SC 809

⁴⁸⁴ ET Online, 'Why Is the Govt Handing out \$1 Billion to Content Creators?' (The Economic Times, 1 May 2025) <<https://m.economictimes.com/industry/media/entertainment/why-is-the-govt-handing-out-1-billion-to-content-creators/articleshow/119110000.cms> > accessed 23 May 2025

reframe copyright as a tool for equitable collaboration, enabling the legal system to truly support the voices of India's 500 million social media users.

