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Over Wedding Music In India And The United States, Authored By: Ms.
Shweta Wankhede Kulkarni, Research Scholar & Research Assistant,
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ABSTRACT:

Indian weddings celebrate vibrant diversity with a mix of traditional folk tunes and lively Bollywood melodies, preserving cultural heritage while embracing modern influences. Each note resonates not only to elevate the festive atmosphere but also serves as a reminder of the deep-rooted traditions that continue to thrive. This harmonious integration of music and cultural identity enhances the celebration. The intersection of copyright law and cultural traditions represents one of the most complex challenges in contemporary intellectual property jurisprudence. Nowhere is this complexity more evident than in the ongoing disputes surrounding the use of copyrighted music in wedding ceremonies, which have generated significant litigation and policy debates in both India and the United States. This research paper examines the complex intersection of copyright law and cultural traditions, specially focusing on the use of copyrighted music in wedding ceremonies. Through a comparative analysis of Indian and American copyright jurisprudence, this study examines how different legal systems strike a balance between protecting intellectual property rights and preserving cultural and religious practices. The paper analyzes key judicial decisions, legislative frameworks, and doctrinal approaches in both jurisdictions, with particular emphasis on fair use exceptions and their application to marriage-related festivities. The research concludes that while both legal systems recognize the need to protect cultural practices, their approaches to balancing copyright holders' rights with public interest vary significantly, reflecting broader differences in their copyright philosophies and cultural contexts.

Keywords: Copyright, Cultural Traditions, Wedding Music, Fair Use, Enforcement Mechanism.

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I. INTRODUCTION:

The vibrant world of Indian weddings is intricately tied to music, which acts as the heartbeat of these joyous celebrations and a conduit for centuries-old traditions as they evolve into the modern age. Music plays a crucial role in this enchanting tapestry of culture and festivity, threading its way through every ritual, dance, and gathering, imbuing each moment with emotion and fostering connections across generations. Indian weddings transcend mere ceremonies; they are grand celebrations that unite families, communities, and friends in a beautiful communion of love¹. The musical landscape of these events is rich and diverse, reflecting the multitude of regions, languages, and cultures across the country. From traditional folk tunes that echo the heart of heritage to the lively melodies of contemporary Bollywood songs, the soundtrack of an Indian wedding showcases a stunning variety of genres. By highlighting this blend of old and new, Indian weddings exemplify the importance of preserving cultural heritage while embracing modern influences². Each note resonates not only to elevate the festive atmosphere but also serves as a reminder of the deep-rooted traditions that continue to thrive. This harmonious integration of music and cultural identity enhances the celebration, ensuring that every event is a distinctive testament to the enduring significance of tradition and creativity in Indian society. Music, being an integral component of wedding celebrations across cultures, serves not merely as entertainment but as a vessel for cultural expression, religious observance, and social bonding. However, the increasing commercialization of music and the strengthening of copyright enforcement mechanisms have brought these traditional practices into conflict with intellectual property rights. From the moment the Sangeet kicks off, a vibrant pre-wedding musical celebration, the path to the wedding transforms into an exhilarating crescendo of laughter and dance. Family and friends

¹ Sabahuddin Ahmad, An Overview of Folk Literature in Indian Languages, IJHCS, Volume 10, Issue 2, 2024, PP 1-23, <https://www.arcjournals.org/pdfs/ijhcs/v10-i2/1.pdf>, last visited on October 20, 2024.

² India: Unity in Cultural Diversity, First Edition June 2018 Published at the Publication Division by the Secretary, National Council of Educational Research and Training https://ncert.nic.in/pdf/publication/otherpublications/Unity_cultural.pdf, last visited on November 20, 2024.

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gather with enthusiasm to support the couple as they embark on this significant journey together. Traditional folk songs and dynamic performances set the stage for spirited dance-offs and engaging competitions, creating unforgettable memories. The melodies that resonate during Indian weddings are not only integral to the festivities, but also a vital expression of our rich cultural heritage. However, this passionate celebration of music raises crucial legal considerations, particularly regarding Section 52(1)(za) of the Copyright Act, 1957, which pertains to fair use. The ongoing debates surrounding wedding music and copyright law highlight the real challenges faced by copyright societies and event organizers. It's a compelling reflection of the need to navigate the intersection of artistic expression and legal frameworks confidently, ensuring that both creativity and cultural traditions are upheld³.

This research paper undertakes a comprehensive comparative analysis of how Indian and American copyright law systems address the use of copyrighted music in wedding ceremonies. The study examines the doctrinal foundations, judicial interpretations, and practical applications of fair use exceptions in both jurisdictions, with particular attention to recent developments and emerging challenges. This paper addresses the critical pull between safeguarding intellectual property rights and maintaining cultural autonomy. By taking a comparative approach, it highlights crucial issues, encouraging to recognize the significance of balancing these two essential aspects. The significance of this study extends beyond academic interest, as it addresses practical concerns affecting millions of couples, event organizers, and cultural practitioners worldwide. The research contributes to the growing body of literature on the intersection of copyright law and cultural practices, while providing insights that may inform future policy developments and judicial decisions in both jurisdictions⁴. The theoretical underpinnings of copyright law rest on the fundamental pull between incentivizing

³ Gecer, A. K., & Topal, A. D. (2019). Academic and postgraduate student awareness of digital product copyright issues. *Information Development*, 37(1), 90-104. <https://doi.org/10.1177/026666919895550> (Original work published 2021).

⁴ Copyright Infringement in the EU Digital Single Market, SSRN Electronic Journal, 2021.

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creativity and ensuring public access to knowledge and culture. This tension is particularly acute in the context of wedding music, where traditional celebrations intersect with modern copyright regimes⁵. Scholarly discourse has increasingly recognized that copyright law must accommodate cultural practices while maintaining adequate protection for creators' rights. Recent academic analysis has emphasized the importance of viewing copyright not just as a legal framework but as a cultural phenomenon that influences social practices and community behaviors⁶. The digitalization of music has further complicated these issues, as it has significantly increased the efficiency of unauthorized copying while also making enforcement more difficult⁷. This research employs a doctrinal legal research methodology, combining comparative analysis with case study examination. The study draws on primary legal sources, including statutory provisions, judicial decisions, and regulatory pronouncements from both India and the United States. Secondary sources, including academic articles, legal commentaries, and policy documents, provide additional context and analysis. The comparative approach allows for systematic examination of how different legal systems address similar challenges, while the case study methodology enables detailed analysis of specific disputes and their resolution. This mixed-method approach provides both breadth and depth to the analysis, allowing for comprehensive understanding of the legal landscape in both jurisdictions.

II. COMPARATIVE COPYRIGHT STUDIES:

Comparative studies of copyright law between India and the United States have revealed significant differences in their approaches to balancing creator rights with public interest. Research has shown that while both systems draw from similar international frameworks, their interpretation and application of fair use exceptions differ noticeable. These differences reflect

⁵ *Supra* note 1.

⁶ Mammadov, Rahil, Copyright Infringement in the EU Digital Single Market (May 30, 2021). Available at SSRN: <https://ssrn.com/abstract=3890071> or <http://dx.doi.org/10.2139/ssrn.3890071> (last visited on November 4, 2024.)

⁷ *Supra* note 1.

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deeper philosophical distinctions about the role of intellectual property in society and the appropriate scope of copyright protection. The scholarly literature has identified several key areas where Indian and American copyright systems diverge, including the treatment of moral rights, the scope of fair use exceptions, and the enforcement mechanisms available to copyright holders. These differences have important implications for how wedding music disputes are resolved in each jurisdiction.

II.I FAIR USE DOCTRINE EVOLUTION:

The evolution of fair use doctrine has been extensively studied, with particular attention to how courts have adapted these principles to address new technologies and social practices⁸. Research has demonstrated that fair use determinations are highly contextual and depend on careful analysis of multiple factors, including the purpose of the use, the nature of the copyrighted work, and the potential market impact⁹. Academic analysis has shown that the transformative use doctrine has become increasingly influential in fair use determinations, particularly in the United States. This development has important implications for wedding music cases, as it may provide a framework for evaluating whether ceremonial use of copyrighted music constitutes fair use¹⁰.

III. THE INDIAN LEGAL FRAMEWORK:

III.I CONSTITUTIONAL AND STATUTORY FOUNDATIONS:

The Indian copyright system is grounded in the Copyright Act, 1957, which has been amended multiple times to address evolving challenges in intellectual property protection. The Act provides comprehensive protection for various forms of creative expression, including musical

⁸ Susan Wilson and Cameron J. Hutchison. 2008. A Comparative Study of 'Fair Use' in Japanese, Canadian and US Copyright Law. SSRN Electronic Journal (2008).

⁹ Copyright Clause of the U.S. Constitution, Article 1, Section 8, Clause 8,
<https://ogc.harvard.edu/pages/copyright- and-fair-use>, last visited on December 4, 2024.

¹⁰ Jane C Ginsburg, FAIR USE IN THE UNITED STATES: TRANSFORMED, DEFORMED, REFORMED?
Singapore Journal of Legal Studies, [2020] 265–294

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works and sound recordings. Section 52¹¹ of the Act contains exceptions to copyright infringement, including the crucial provision in Section 52(1)(za)¹² that addresses the use of copyrighted works in religious ceremonies. The constitutional framework supporting copyright protection in India is found in Article 19(1)(a)¹³, which protects freedom of expression, and various provisions relating to the promotion of arts, science, and culture. This constitutional foundation creates a framework that must balance intellectual property rights with fundamental rights and cultural values.

III.II THE SECTION 52(1)(ZA) EXCEPTION:

Section 52(1)(za) of the Copyright Act, 1957, provides a specific exception for “the performance of a literary, dramatic or musical work or the communication to the public of such work or of a sound recording in the course of any bona fide religious ceremony or an official ceremony held by the Central Government or the State Government or any local authority”. The explanation to this section specifically includes “marriage procession and other social festivities associated with a marriage” within the definition of religious ceremony. This provision reflects the Indian legislature’s recognition of the importance of cultural and religious practices in Indian society. The inclusion of marriage-related festivities within the scope of religious ceremonies demonstrates an understanding that weddings in India are not merely civil contracts but integral parts of religious and cultural observance.

III.III JUDICIAL INTERPRETATION AND DEVELOPMENT:

III.III.I INITIAL JUDICIAL APPROACHES:

The earliest judicial consideration of wedding music copyright issues can be traced to the case of Devendrakumar Ramchandra Dwivedi vs. State of Gujarat and Others¹⁴, where the court held that Section 52(1) of the Copyright Act was intended to exempt live performances of

¹¹ Section 52, The Copyright Act, 1957.

¹² Section 52(1)(za) of the Copyright Act, 1957.

¹³ Article 19(1)(a) Constitution of India.

¹⁴ Devendrakumar Ramchandra Dwivedi v State of Gujarat and Others (Special Civil Application No. 9979 of 2009)

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works from copyright restrictions when there is no profit motive, no admission fee, and when the proceeds are used for educational, religious, or charitable purposes. The court emphasized that performances in connection with bona fide religious ceremonies, including marriage processions and associated social festivities, would not amount to copyright infringement. This early interpretation established important precedents regarding the scope of the religious ceremony exception and the factors that courts should consider in determining whether a particular use falls within the exception. The emphasis on non-commercial use and the absence of profit motive became central themes in subsequent judicial decisions.

III.III.II CONFLICTING INTERPRETATIONS:

The judicial landscape became more complex with the decision in *Phonographic Performance vs. State of Punjab*¹⁵, where the Punjab & Haryana High Court took a more restrictive approach to the religious ceremony exception. The court distinguished between the marriage ceremony itself and functions connected to the marriage, holding that DJ performances at wedding-related events did not necessarily fall within the scope of the exception. This decision created significant uncertainty in the legal framework and led to conflicting interpretations across different courts. The restrictive approach adopted by the Punjab & Haryana High Court was seen by many as undermining the legislative intent behind Section 52(1)(za) and creating practical difficulties for wedding organizers.

III.III.III GOVERNMENT INTERVENTION AND CLARIFICATION:

In response to the conflicting judicial interpretations and practical difficulties faced by wedding organizers, the Government of India intervened through administrative action. The Registrar of Copyright issued a public notice dated August 28, 2019, clarifying that Section 52(1)(za) permits the playing of sound recordings during religious ceremonies, including marriage

¹⁵ M/S Phonographic Performance Limited vs State of Punjab Through Secretary Department of Home Affairs & Justice, Civil Secretariat, Chandigarh, and others, on 27 July, 2011.

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processions and associated celebrations, without requiring a license¹⁶. This governmental clarification was significant because it represented an authoritative interpretation of the statutory provision by the administrative authority responsible for copyright registration. The notice emphasized that the use of copyrighted music in wedding contexts was considered fair use and did not constitute copyright infringement.

III.III.IV LEGAL CHALLENGES TO GOVERNMENT

CLARIFICATION:

The government's clarification faced legal challenges, most notably in *Novex Communications Private Limited vs. Union of India and Ors*¹⁷, where the petitioner argued that the government lacked jurisdiction to interpret legislation, as this was solely the responsibility of parliament and courts. The Punjab and Haryana High Court ultimately revoked public notice, holding that the issue of fair use under Section 52(1)(za) must be resolved on a case-by-case basis. This decision restored the uncertainty that the government had attempted to address and highlighted the ongoing tension between different institutional actors in the copyright system. The court's emphasis on case-by-case determination, while legally comprehensive, created practical challenges for wedding organizers and copyright societies alike.

III.III.V THE LOOKPART CASE AND EXPERT ANALYSIS:

The landmark case of *Phonographic Performance Limited vs. Lookpart Exhibitions and Events Private Ltd*¹⁸, represented a significant development in the legal framework governing wedding music copyright. The case was filed by Phonographic Performance Limited (PPL) against an event management company that provided DJ services for weddings. Recognizing the importance and complexity of the issues involved, the court appointed Dr. Arul George

¹⁶ Public Notice regarding Section 52(1) (za) of copyright act, 1957, July 24, 2023, <https://dpiit.gov.in/what's-new/public-notice-regarding-section-521-za-copyright-act-1957>.

¹⁷ Novex Communication Private Limited vs Gulraj Hotels Pvt. Ltd on 24 January, 2024, <https://copyright.gov.in/Exceptions.aspx>

¹⁸ Supra Note 15.

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Scaria as an expert under Rule 31 of the Delhi High Court Intellectual Property Division Rules, 2022. Dr. Scaria's expert submissions provided comprehensive analysis of the legal, cultural, and constitutional dimensions of the wedding music copyright issue. His analysis traced the history of intellectual property law in India and international law, demonstrating that international instruments provided sufficient discretion for member states to implement appropriate exceptions and limitations. The expert submissions emphasized several key points that have become central to understanding the wedding music copyright issue. First, marriage represents one of the most significant social institutions in India, and most Indian communities place high value on marriage rituals and associated festivities. The interpretation of Section 52(1)(za) must protect and promote the constitutional right under Article 21¹⁹ to conduct marriage and participate in marriage-related celebrations according to one's own custom and culture. Second, the expert analysis highlighted the importance of restricting the range of rights of copyright owners in the context of religious ceremonies, particularly given the existence of criminal remedies for copyright infringement. The concerns about aggravation during wedding ceremonies, along with the fact that copyright infringement is now treated as a serious offense, raise significant issues regarding the practical application of copyright law in wedding contexts. Third, the submissions noted that potential police interference during weddings could jeopardize the constitutionally protected right to privacy. This constitutional dimension added another layer of complexity to the analysis and highlighted the broader implications of copyright enforcement in intimate social contexts²⁰.

III.III.VI RECENT DEVELOPMENTS AND THE BOMBAY HIGH COURT DECISION:

¹⁹ Article 21, Constitution of India.

²⁰ Scaria, Arul George, Reading Sec. 52(1)(za) of the Copyright Act 1957: Report of the Independent Expert appointed by the Delhi High Court in Phonographic Performance Limited v. Lookpart Exhibitions and Events Private Limited (October 11, 2022). Available at SSRN: <https://ssrn.com/abstract=4244428> or <http://dx.doi.org/10.2139/ssrn.4244428>.

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The most recent significant development in the legal framework came with the *Phonographic Performance Ltd. vs. State of Goa*²¹, decision by the Bombay High Court in 2024. This case involved a challenge to a circular issued by the Goa government that exempted wedding music from copyright licensing requirements. The Bombay High Court held that the government circular was illegal and beyond the scope of Section 52(1)(za). The court emphasized that the interpretation of copyright exceptions was the domain of competent courts and must be determined based on the facts and circumstances of each case. The decision highlighted the continuing tension between administrative interpretations and judicial authority in copyright matters. The court's analysis focused on the distinction between informational circulars and interpretative exercises that go beyond the statutory framework. The court found that the government circular had expanded the scope of Section 52(1)(za) beyond its statutory limits and interfered with the enforcement mechanisms provided in the Copyright Act.

III.IV THE DPIIT PUBLIC NOTICE AND INDUSTRY RESPONSE:

In July 2023, the Department for Promotion of Industry and Internal Trade (DPIIT) issued a public notice clarifying that marriage processions and other social festivities associated with marriage are included within the definition of religious ceremony under Section 52(1)(za). The notice instructed copyright societies to refrain from requesting royalties for musical works played at wedding functions. This notice was welcomed by the hospitality industry, which had been facing significant challenges from copyright societies demanding license fees for wedding-related music performances. The notice provided temporary relief to hotels, event organizers, and couples planning weddings, who had been caught in the middle of the legal uncertainty²². However, the notice also faced criticism from copyright holders and their representatives, who argued that it undermined their legitimate rights and created an overly

²¹ Phonographic Performance Limited Thr. ... vs State Of Goa, Department Of Home, Thr. ... on 13 August, 2024, <https://indiankanoon.org/doc/6253567>.

²² Supra Note 16.

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broad exception that could be abused. The ongoing legal challenges to such notices demonstrate the continuing difficulty in balancing competing interests in this area.

V. THE AMERICAN LEGAL FRAMEWORK:

V.I CONSTITUTIONAL AND STATUTORY FOUNDATIONS:

The United States copyright system is grounded in Article I, Section 8, Clause 8 of the Constitution²³, which empowers Congress to promote the progress of science and useful arts by securing exclusive rights to authors and inventors for limited times. This constitution establishes a utilitarian approach to copyright that emphasizes the public benefit of creative works while providing incentives for creation. The modern statutory framework is found in the Copyright Act of 1976, which provides comprehensive protection for various forms of creative expression, including musical works and sound recordings. The Act establishes a system of exclusive rights for copyright holders while providing specific exceptions and limitations, most notably the fair use doctrine codified in Section 107 of the Copyright Act 1976²⁴.

V.II THE FAIR USE DOCTRINE:

V.II.I STATUTORY FRAMEWORK:

Section 107 of the Copyright Act of 1976 codifies the fair use doctrine, which permits the use of copyrighted works for purposes such as criticism, comment, news reporting, teaching, scholarship, or research without requiring permission from the copyright holder. The statute provides four factors that courts must consider in determining whether a particular use constitutes fair use²⁵. *The purpose and character of the use, including whether such use is commercial or for nonprofit educational purposes.*

1. The nature of copyright work,

²³ Article I, Section 8, Clause 8 of the U.S. Constitution.

²⁴ Section 107 of the Copyright Act 1976.

²⁵ D.R. Jones, Law Firm Copying and Fair Use: An Examination of Different Purpose and Fair Use Markets, Law Archive (Oct.1, 2017), osf.io/jzqkt/, available at, <https://osf.io/jzqkt/>, last visited on December 14, 2014.

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2. *The amount and substantiality of the portion used in relation to the copyrighted work as a whole,*
3. *The effect of the use upon the potential market for or value of the copyrighted work.*

V.II.II JUDICIAL DEVELOPMENT AND THE TRANSFORMATIVE USE DOCTRINE:

American courts have developed the fair use doctrine through case law, with particular emphasis on the transformative use principle. The transformative use doctrine, which emerged from the Supreme Court's decision in *Campbell vs. Acuff-Rose Music, Inc*²⁶., focuses on whether the new work adds something new, with a further purpose or different character, altering the first work with new expression, meaning, or message. The transformative use doctrine has become increasingly influential in fair use determinations, particularly in cases involving new technologies and creative practices. Courts have recognized that transformative use can occur even without physical alteration of the original work, as long as the new use serves a different purpose or conveys a different message²⁷.

V.II.III RELIGIOUS AND CULTURAL CONSIDERATIONS:

While American copyright law does not contain a specific exception for religious ceremonies comparable to Indian law, courts have recognized that religious and cultural uses may qualify for fair use protection under the general framework. The First Amendment's protection of religious freedom provides additional constitutional support for religious uses of copyrighted works. American courts have generally been more willing to find fair use when the use serves important social, cultural, or religious purposes, particularly when the use is non-commercial and does not harm the market for the original work. This approach reflects the American

²⁶ Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994) available at <https://supreme.justia.com/cases/federal/us/510/569/>, last visited on December 4, 2024.

²⁷ Jiarui Liu, An Empirical Study of Transformative Use in Copyright Law, 22 STAN. TECH. L. REV. 163 (2019),https://law.stanford.edu/wp-content/uploads/2019/02/Liu_20190203.pdf, last visited on December 14, 2024.

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copyright system's emphasis on balancing competing interests and promoting the public good²⁸.

V.III DIGITAL RIGHTS AND THE DMCA:

The Digital Millennium Copyright Act (DMCA) of 1998²⁹, significantly expanded the scope of copyright protection in the digital environment while providing safe harbor provisions for online service providers. The DMCA's impact on wedding music copyright is particularly relevant in the context of online streaming and social media sharing of wedding videos. The DMCA's takedown and notice provisions have created new challenges for wedding-related content, as copyright holders can request removal of videos containing copyrighted music even when such use might qualify as fair use. This has led to practical difficulties for couples and videographers who wish to share wedding content online.

V.IV COMPARATIVE ANALYSIS OF ENFORCEMENT

MECHANISMS:

The enforcement mechanisms available in the United States differ significantly from those in India. American copyright law provides both civil and criminal remedies, but criminal enforcement is generally reserved for cases involving willful infringement on a commercial scale. This approach creates less potential for harassment in non-commercial contexts compared to the Indian system³⁰. The American system's emphasis on civil remedies and the availability of statutory damages provides copyright holders with effective enforcement tools while limiting the potential for abuse in non-commercial contexts. This balance has important

²⁸ Edmund T. Wang, THE LINE BETWEEN COPYRIGHT AND THE FIRST AMENDMENT AND WHY ITS VAGUENESS MAY FURTHER FREE SPEECH INTERESTS, *JOCL*, Vol-13:5, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1103&context=jcl>, last visited on December 14, 2024.

²⁹ The Digital Millennium Copyright Act (DMCA) of 1998.

³⁰ Svoboda E, Chatterjee D, Harnke B. Do I Need to Ask Permission? Applying Fair Use to Educational Activities. *J Grad Med Educ.* 2022 Oct;14(5):515-518. doi: 10.4300/JGME-D-22-00082.1. PMID: 36274768; PMCID: PMC958031, <https://pmc.ncbi.nlm.nih.gov/articles/PMC9580316/>, last visited on December 15, 2024.

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implications for wedding music disputes, as it reduces the likelihood of enforcement actions against individual consumers³¹.

VI. COMPARATIVE ANALYSIS:

VI.I PHILOSOPHICAL FOUNDATIONS:

The philosophical foundations underlying Indian and American copyright systems reflect different approaches to balancing creator rights with public interest. The Indian system, influenced by its constitutional commitment to cultural preservation and social justice, tends to provide broader exceptions for cultural and religious practices. The American system, grounded in utilitarian theory, focuses on market-based analysis and economic efficiency. These philosophical differences are reflected in the specific provisions and judicial interpretations in each system³². The Indian Copyright Act's explicit recognition of religious ceremonies, including marriage-related festivities, demonstrates a more culturally sensitive approach compared to the American system's reliance on general fair use principles.

VI.II SCOPE OF EXCEPTIONS:

The scope of copyright exceptions in the two systems reveals significant differences in their approaches to cultural practices. India's Section 52(1)(za) provides a specific, targeted exception for religious ceremonies, including marriage-related activities. This approach offers greater certainty for users while potentially limiting the scope of protection for copyright holders. In contrast, the American fair use doctrine provides a more flexible framework that can accommodate various uses, including cultural and religious practices, but offers less certainty about the outcome of specific cases. The four-factor analysis requires case-by-case

³¹ Jones, D.R., Law Firm Copying and Fair Use: An Examination of Different Purpose and Fair Use Markets, 56 South Texas L. Rev. 313 (2014), Vol. 56:313, pg. 313, https://osf.io/preprints/lawarchive/jzqkt_v1/, last visited on December 15, 2024.

³² Weinrib, E. J. (1980). Utilitarianism, Economics, and Legal Theory, The University of Toronto Law Journal, 30(3), 307–332. <https://doi.org/10.2307/825489>, last visited on December 15, 2024.

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determination, which can be costly and time-consuming but may result in more nuanced outcomes³³.

VI.III ENFORCEMENT MECHANISMS AND PRACTICAL IMPLICATIONS:

The enforcement mechanisms in the two systems create different practical implications for wedding music disputes. India's criminal copyright enforcement system, combined with the potential for police involvement in wedding-related disputes, creates greater potential for harassment and intimidation. The American system's emphasis on civil remedies reduces this risk but may provide less effective deterrence against infringement. The practical implications extend beyond legal enforcement to include industry practices and social norms. The uncertainty created by conflicting judicial decisions and administrative actions in India has led to inconsistent practices among wedding organizers and copyright societies. The American system's reliance on case law development has created more predictable outcomes but may not adequately address the specific cultural dimensions of use of music in weddings³⁴.

VI.IV CULTURAL SENSITIVITY AND CONSTITUTIONAL CONSIDERATIONS:

Both systems must balance copyright protection with constitutional rights and cultural values, but they approach this balance differently. India's constitutional framework explicitly recognizes cultural rights and the importance of preserving traditional practices. This recognition is reflected in the specific provisions of copyright law and judicial interpretations that emphasize cultural sensitivity³⁵. The American system's constitutional framework provides broader protection for free speech and religious exercise, but these protections must be

³³ Rich Stim, Measuring Fair Use: The Four Factors, Standford Libraries, <https://fairuse.stanford.edu/overview/fair-use/four-factors/>, last visited on December 15, 2024.

³⁴ Supra note 30.

³⁵ Kashak Agarwala, **LEGAL RECOGNITION OF CUSTOMARY PRACTICES: CONSTITUTIONAL PERSPECTIVES**, IJLLR Vol VII Issue III, pg. 3623 available at <https://www.ijllr.com/post/legal-recognition-of-customary-practices-constitutional-perspectives>, last visited on December 14, 2024.

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balanced against property rights through the fair use doctrine. The absence of specific cultural exceptions in American copyright law may create challenges for traditional practices that rely on copyrighted materials.

VII. INTERNATIONAL PERSPECTIVES AND HARMONIZATION:

VII.I INTERNATIONAL TREATY OBLIGATIONS:

Both India and the United States are parties to major international copyright treaties, including the Berne Convention and the TRIPS Agreement. These treaties establish minimum standards for copyright protection while allowing member states flexibility in implementing exceptions and limitations. The analysis of international treaty obligations reveals that the approach of both countries to wedding music copyright are consistent with their international commitments. The three-step test for copyright exceptions of TRIPS Agreement allows for specific exceptions provided they are limited to certain special cases and therefore, it does not conflict with normal exploitation of the work, and do not unreasonably prejudice the legitimate interests of the copyright holder.

VII.II COMPARATIVE INTERNATIONAL APPROACHES:

Examination of other legal systems reveals various approaches to balancing copyright protection with cultural practices. European Union copyright law, for example, provides specific exceptions for certain cultural and educational uses while maintaining strong protection for commercial exploitation. The European approach offers insights into potential harmonization strategies that could benefit both systems³⁶. The analysis of international

³⁶ Adil S. Al-Busaidi, Raghu Raman, Laurie Hughes, Mousa Ahmed Albashrawi, Tegwen Malik, Yogesh K. Dwivedi, Thuraiya Al-Alawi, Mohammed AlRizeiqi, Gareth Davies, Mark Fenwick, Parul Gupta, Shashikala Gurpur, Apeksha Hooda, Paulius Jurcys, Daryl Lim, Nicola Lucchi, Tanvi Misra, Ramakrishnan Raman, Anuragini Shirish, Paul Walton, Redefining boundaries in innovation and knowledge domains: Investigating the impact of generative artificial intelligence on copyright and intellectual property rights, Journal of Innovation & Knowledge, Volume 9, Issue 4, 2024, available at <https://www.sciencedirect.com/science/article/pii/S2444569X24001690>, last visited on December 17, 2024.

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perspectives demonstrates that the tension between copyright protection and cultural practices is not unique to India and the United States. Many legal systems struggle to balance these competing interests, suggesting the need for continued dialogue and potential harmonization efforts.

VII.III EMERGING CHALLENGES AND FUTURE DIRECTIONS:

The digital transformation of music distribution and consumption creates new challenges for wedding music copyright that transcend national boundaries. Streaming services, social media platforms, and digital wedding technologies create global distribution networks that complicate traditional approaches to copyright enforcement³⁷. These emerging challenges suggest the need for international cooperation and harmonization efforts that can address the global nature of digital music distribution while preserving the cultural autonomy of different legal systems. The development of international best practices and model legislation could help address these challenges³⁸.

VIII. CURRENT SITUATION ANALYSIS:

VIII.I LEGAL UNCERTAINTY AND PRACTICAL CHALLENGES:

The current legal landscape regarding wedding music copyright in India is characterized by significant uncertainty and practical challenges. The conflicting judicial decisions, administrative actions, and industry practices have created a complex environment where wedding organizers, copyright societies, and couples face difficult decisions about music use. The Bombay High Court's recent decision quashing the circular passed by the Goa government has added another layer of complexity to the legal framework. While the decision provides important clarification about the limits of administrative authority in copyright interpretation,

³⁷ Li N. Combination of Blockchain and AI for Music Intellectual Property Protection. *Comput Intell Neurosci*. 2022 Apr 28;2022:4482217. doi: 10.1155/2022/4482217. PMID: 35528352; PMCID: PMC9071948, available at <https://PMC.ncbi.nlm.nih.gov/articles/PMC9071948/>, last visited on December 14, 2024.

³⁸ Miraz, Associate Prof Dr Mahadi. (2025). MUSIC COPYRIGHT PROTECTION IN THE DIGITAL ERA:LEGAL FRAMEWORK AND STRATEGIES FOR ENFORCEMENT 40, available at <http://dx.doi.org/10.26532/jh.v40i2.40525>, last visited on December 14, 2024.

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it also returns the legal system to a state of uncertainty that may require further judicial or legislative intervention.

VIII.II INDUSTRY ADAPTATION AND MARKET RESPONSES:

The wedding industry has adapted to the legal uncertainty in various ways, including the development of alternative music licensing arrangements, the use of original compositions, and the creation of industry-specific guidelines for music use. These adaptations reflect the practical need to balance legal compliance with cultural expectations. Copyright societies have also adapted their practices in response to legal developments and industry pressure. Some societies have developed specific licensing arrangements for wedding-related uses, while others have focused on commercial venues and professional event organizers rather than individual consumers³⁹.

VIII.III TECHNOLOGICAL SOLUTIONS AND FUTURE DEVELOPMENTS:

Technology offers potential solutions to some of the challenges created by the current legal framework. Digital licensing platforms, automated royalty collection systems, and blockchain-based rights management could provide more efficient and transparent mechanisms for managing wedding music copyright⁴⁰. The development of artificial intelligence and machine learning technologies also creates new possibilities for copyright management and

³⁹ Harsh Maheshwari, Marriage Melodies Without Royalties- DPIIT Issues Public Notice, <https://www.mondaq.com/india/copyright/1358502/marriage-melodies-without-royalties-dpiit-issues-public-notice>, last visited on December 14, 2024.

⁴⁰ Tamilselvan, N & Scholar, Researcher, (2024), BLOCKCHAIN-BASED DIGITAL RIGHTS MANAGEMENT FOR ENHANCED CONTENT SECURITY IN DIGITAL LIBRARIES, 1-8, available at https://www.researchgate.net/publication/377701093_BLOCKCHAINBASED_DIGITAL_RIGHTS_MANAGEMENT_FOR_ENHANCED_CONTENT_SECURITY_IN_DIGITAL_LIBRARIES, last visited on December 24, 2024.

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enforcement. These technologies could enable more precise tracking of music use and automated licensing arrangements that reduce transaction costs and administrative burdens⁴¹.

IX. RECOMMENDATIONS AND POLICY IMPLICATIONS:

IX.I LEGISLATIVE REFORMS:

The analysis suggests several potential legislative reforms that could improve the current framework for wedding music copyright in both jurisdictions. In India, clarification of the scope and application of Section 52(1)(za) through legislative amendment could reduce uncertainty and provide clearer guidance for courts and practitioners. In the United States, consideration of specific cultural and religious exceptions similar to those found in Indian law could provide greater protection for traditional practices while maintaining adequate incentives for creation. Such reforms would require careful balancing of competing interests and consideration of constitutional constraints.

IX.II JUDICIAL GUIDELINES AND BEST PRACTICES:

The development of judicial guidelines and best practices for wedding music copyright cases could help reduce uncertainty and promote consistent decision-making. Such guidelines could address the factors that courts should consider in determining whether wedding music use qualifies for fair use or other exceptions⁴². The establishment of specialized copyright courts or judicial panels with expertise in intellectual property law could also improve the quality and consistency of decisions in this area. Such reforms would require investment in judicial training and infrastructure but could provide significant benefits in terms of legal certainty and efficiency.

⁴¹ Christy Nathaniela, Thalea & Princes, Elfindah & Wang, Gunawan. (2024). Royalty Management by Using Blockchain Network: A Multiple Case Study, available at https://www.researchgate.net/publication/387115518_Royalty_Management_by_Using_Blockchain_Network_A_Multiple_Case_Study/citation/download, last visited on December 14, 2024.

⁴² Shouvik Kumar Guha, Dancing to the Tune of Garba and Dandiya: Gujarat High Court says "No Fair"?, available at, <https://spicyip.com/2009/09/dancing-to-tune-of-garba-and-dandiya.html>, last visited on December 14, 2024.

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IX.III INDUSTRY SELF-REGULATION AND COLLABORATION:

The development of industry self-regulation and collaboration mechanisms could help address some of the practical challenges created by the current legal framework. Industry associations, copyright societies, and wedding professionals could work together to develop voluntary guidelines and best practices that balance legal compliance with cultural needs. The establishment of mediation and arbitration mechanisms for wedding music copyright disputes could also provide more efficient and cost-effective alternatives to litigation⁴³. Such mechanisms could help resolve disputes quickly and preserve relationships between industry participants.

X. CONCLUSION:

This comparative analysis of wedding music copyright law in India and the United States reveals significant differences in legal frameworks, judicial approaches, and practical applications. The Indian system's explicit recognition of religious ceremonies, including marriage-related festivities, demonstrates a more culturally sensitive approach to copyright exceptions. However, the conflicting judicial interpretations and administrative actions have created substantial uncertainty that undermines the effectiveness of this approach. The American system's reliance on the general fair use doctrine offers greater flexibility but less certainty regarding the use of wedding music. The four-factor analysis necessitates a case-by-case evaluation, which can be costly and time-consuming. However, this approach may lead to more nuanced outcomes that effectively balance competing interests. The current situation in India concerning wedding music copyright is marked by legal uncertainty, practical challenges, and ongoing disputes among various stakeholders. The recent decision by the Bombay High Court, which overturned the Goa government's circular, has introduced an additional layer of complexity and underscored the limitations of administrative authority in interpreting copyright issues. The analysis suggests that both legal systems would benefit from reforms that

⁴³ Supra note 30.

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provide greater clarity and consistency in the treatment of wedding music copyright. In India, legislative clarification of Section 52(1)(za) and the development of judicial guidelines could reduce uncertainty and promote consistent application. In the United States, consideration of specific cultural and religious exceptions could provide greater protection for traditional practices. The global nature of digital music distribution and the emergence of new technologies create additional challenges that require international cooperation and harmonization efforts. The development of international best practices and model legislation could help address these challenges while preserving the cultural autonomy of different legal systems. Akpobome, Omena rightly observes in his article titled, "The Impact of Emerging Technologies on Legal Frameworks: A Model for Adaptive Regulation," published in the International Journal of Research Publication and Reviews (2024). Resolving wedding music copyright disputes requires a balanced approach that protects the rights of copyright holders while also respecting the cultural and religious freedoms crucial to diverse societies. Given the evolving nature of legal systems, ongoing dialogue and reform efforts will be necessary to attain this equilibrium in the digital age. This will involve collaboration among stakeholders, including artists, event organizers, and legal authorities, to find solutions that respect both creative rights and cultural practices. The significance of this issue goes beyond just legal technicalities; it touches on broader questions about the role of intellectual property in society, the interplay between law and culture, and the difficulty of balancing competing interests in our increasingly interconnected world. As both India and the United States navigate these complexities, their experiences provide valuable insights for other legal systems facing similar challenges. Addressing the evolving landscape of copyright will require ongoing dialogue and collaboration to protect cultural and creative expressions while respecting copyright laws. The future of wedding music copyright law will likely be influenced by ongoing technological advancements, shifting cultural practices, and the continuous conversation among various stakeholders within the copyright framework. Successful reforms will hinge on their capacity

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to meet the practical needs of users while ensuring that creators' rights are adequately protected in an increasingly intricate and evolving landscape.

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