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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

MORAL RIGHTS AND THE RIGHT TO PRIVACY: INTERSECTIONS IN INDIAN AND INTERNATIONAL COPYRIGHT LAW

AUTHORED BY: APARNA TAMRAKAR

ABSTRACT

This paper examines the growing intersection between moral rights under copyright law and the constitutional right to privacy, particularly within the Indian legal context. Moral rights—such as the right of attribution and the right of integrity—recognize the personal and emotional bond between an author and their creative work. Simultaneously, the right to privacy, as affirmed in *Justice K.S. Puttaswamy v. Union of India*, safeguards personal dignity, reputation, and identity. Both legal domains share a common foundation in protecting individual autonomy and human dignity.

Through a doctrinal and comparative legal analysis, the study explores how India's Section 57 of the Copyright Act and constitutional jurisprudence can work together to better protect authors. It draws on international examples from civil and common law systems and highlights the challenges posed by the digital age—particularly remix culture, artificial intelligence, and surveillance technologies.

The paper argues for a unified legal framework that sees authors not merely as rights-holders but as individuals whose identity and creative expression deserve protection from misuse, distortion, and loss of control. Strengthening the connection between moral rights and privacy is essential to preserving the integrity of authorship in today's complex digital landscape.

1. INTRODUCTION

1.1 Context and Significance of the Topic

The recognition of authors as more than mere producers of economic goods, but as individuals whose creations reflect their identity, personality, and dignity, lies at the heart of the doctrine of moral rights.¹ First conceptualized in continental European legal thought, particularly within the French doctrine of “droit moral”, moral rights embody the philosophical understanding that a creative work is an extension of the author’s personhood.² These rights—primarily the right of attribution (paternity) and the right of integrity—serve to preserve the author’s reputation, protect against distortion of their work, and maintain the link between the creator and their creation.³ Notably, they are inalienable and perpetual in many civil law jurisdictions, reflecting their foundational status as personality rights rather than proprietary entitlements.⁴

In parallel, the right to privacy, historically articulated in Warren and Brandeis’ seminal 1890 article, “The Right to Privacy,” as the “right to be let alone,” has undergone a transformative journey in both constitutional and common law traditions.⁵ In the Indian context, this evolution culminated in the landmark judgment in *Justice K.S. Puttaswamy v. Union of India* (2017 10 SCC 1), where the Supreme Court unanimously affirmed privacy as a fundamental right under Article 21 of the Constitution, emphasizing its multidimensional character—spanning physical, informational, decisional, and reputational aspects.⁶ The judgment located privacy at the core of human dignity, autonomy, and identity—principles also underpinning moral rights in copyright law.⁷

The intersection of moral rights and privacy is no longer merely theoretical. In today’s digital and media-saturated environment, artists, performers, and content creators are frequently subjected to the unauthorized reproduction, alteration, or parody of their work, leading not only to infringement of their creative autonomy but also violation of their personal dignity and

¹ Mira T. Sundara Rajan, *Moral Rights: Principles, Practice and New Technology*, Oxford University Press, 2011, p. 3.

² Jane C. Ginsburg, “Moral Rights in a Common Law System,” *Ent. L. Rev.*, (1990) 1(4), p. 121.

³ Sam Ricketson and Jane C. Ginsburg, *International Copyright and Neighbouring Rights*, Vol. I, Oxford University Press, 2006, p. 565.

⁴ Christophe Geiger, “Moral Rights: Historical and Philosophical Perspectives,” *Intellectual Property Quarterly*, 2007(1), p. 1.

⁵ Samuel D. Warren and Louis D. Brandeis, “The Right to Privacy,” *Harvard Law Review*, Vol. 4, No. 5 (Dec. 15, 1890), pp. 193–220.

⁶ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

⁷ Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts*, HarperCollins, 2019, p. 246.

privacy.⁸ Consider, for instance, cases where a film or literary work is distorted for political propaganda, comedic reinterpretation, or artificial intelligence modification—such acts can undermine the author’s intent, injure their reputation, and violate their sense of self, thereby triggering claims grounded in both moral and privacy rights.⁹

This intersection is especially salient in India, where legal recognition of both domains exists but remains underdeveloped in practice. Section 57 of the Copyright Act, 1957 statutorily provides for moral rights but does not explicitly link them to broader notions of privacy, personality, or dignity.¹⁰ Indian courts, while affirming the right to integrity in landmark cases like *Amarnath Sehgal v. Union of India* (2005 (30) PTC 253 Del), have yet to develop a coherent jurisprudence that connects these rights to the right to privacy as constitutionally protected under Article 21.¹¹ However, certain judgments—such as *Phoolan Devi v. Shekhar Kapoor* (1995) and debates around biopics or unauthorized biographies—highlight growing awareness of how creative and narrative control implicates both moral rights and privacy.¹²

Internationally, countries such as France and Germany, rooted in civil law traditions, have treated moral rights as intrinsic to personality and closely aligned with privacy.¹³ The Berne Convention for the Protection of Literary and Artistic Works (Article 6bis) recognizes moral rights on a global scale, yet enforcement varies widely.¹⁴ In contrast, Anglo-American common law systems—including the UK and US—traditionally emphasize economic rights, with moral rights either narrowly construed (UK) or largely unrecognized (US), save for certain exceptions like the Visual Artists Rights Act (VARA) of 1990 in the United States.¹⁵

Moreover, as the digital economy enables rapid sharing and alteration of works through social media, remix culture, and generative AI, the boundaries between public expression and private identity have become increasingly porous.¹⁶ Creators are often confronted with scenarios where

⁸ Amy Adler, “Against Moral Rights,” *California Law Review*, Vol. 97, No. 1 (2009), p. 263.

⁹ David Tan, “A Personal Right to Identity: Culture, Privacy and Personality Rights in Singapore,” *Singapore Journal of Legal Studies*, (2008), p. 1.

¹⁰ Section 57, The Copyright Act, 1957 (India).

¹¹ *Amarnath Sehgal v. Union of India*, 2005 (30) PTC 253 (Del).

¹² *Phoolan Devi v. Shekhar Kapoor & Ors.*, CS (OS) 821/1995, Delhi High Court

¹³ Lionel Bently and Brad Sherman, *Intellectual Property Law*, Oxford University Press, 5th ed., 2022, p. 313.

¹⁴ Article 6bis, Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971).

¹⁵ Visual Artists Rights Act of 1990, 17 U.S.C. § 106A.

¹⁶ Daniel Gervais, “The Tangled Web of UGC: Making Copyright Sense of User-Generated Content,” *Vanderbilt Journal of Entertainment and Technology Law*, Vol. 11, No. 4 (2009), p. 841.

their public persona, private life, and authored content are amalgamated, misrepresented, or repurposed—raising critical questions about the adequacy of current legal protections.¹⁷ The global dissemination of content, coupled with the challenges of jurisdictional enforcement and varying interpretations of personality-based rights, underscores the urgent need to examine how copyright law can adapt to better protect privacy interests embedded within authorship.¹⁸ Furthermore, the growing importance of posthumous rights, digital legacy, and the right to be forgotten in both copyright and privacy discourse suggests that the relationship between an author and their work endures beyond their lifetime, reinforcing the argument for stronger theoretical and doctrinal bridges between these fields.¹⁹

In sum, the significance of this topic lies in its interdisciplinary complexity and legal urgency. As creative expression becomes increasingly entangled with personal identity in the digital age, understanding the intersections between moral rights and the right to privacy is essential for shaping equitable, dignified, and future-ready legal frameworks.²⁰ This inquiry is not merely of academic relevance but of practical importance to authors, artists, courts, lawmakers, and digital platforms alike.²¹

1.2 Objectives and scope of the paper

This paper aims to examine the intersection between moral rights and the right to privacy, with a focus on Indian copyright law and relevant international frameworks. It seeks to:

- Analyse the personal dimensions of moral rights in relation to privacy.
- Explore constitutional and statutory protections in India post-*Puttaswamy*.
- Compare approaches across jurisdictions (France, Germany, UK, US).
- Identify overlaps, conflicts, and legal gaps in current regimes.
- Suggest reforms to better align copyright law with privacy principles.

The scope is limited to literary and artistic works, focusing on Indian law while incorporating key international developments.

¹⁷ Julie E. Cohen, *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice*, Yale University Press, 2012, p. 149.

¹⁸ Rebecca Tushnet, "Worth a Thousand Words: The Images of Copyright," *Harvard Law Review*, Vol. 125, 2012, p. 683.

¹⁹ Nani Jansen Reventlow, "Digital Legacy and Posthumous Rights," in *Human Rights in the Digital Age*, Oxford University Press, 2021, p. 199.

²⁰ Anirudh Burman, "Privacy and the Digital Age in India," *Carnegie India*, October 2017, p. 5.

²¹ Thomas Dreier, "Balancing Authors' Rights with Users' Rights," *IIC - International Review of Intellectual Property and Competition Law*, 2005, p. 423.

1.3 Methodology and Research Approach

This paper adopts a doctrinal legal research methodology, relying on the analysis of statutes, case laws, and international instruments. A comparative approach is used to study foreign jurisdictions. Secondary sources like journal articles, reports, and commentaries support the interpretive framework.

2. UNDERSTANDING MORAL RIGHTS IN COPYRIGHT LAW

2.1 Definition and Components: Right of Attribution and Right of Integrity

Moral rights, distinct from economic rights, serve to protect the personal and reputational bond between an author and their creative output. Rooted in the notion that a work of art is an extension of its creator's identity, moral rights reflect the author's dignity and personality embedded within their creation.²² These rights persist irrespective of ownership or financial interests in the work and are particularly recognized in civil law systems as personality-based rights.²³

The two principal components of moral rights are:

- **Right of Attribution (or Paternity):** This entitles authors to be identified as the creators of their works and to object if their names are omitted or wrongly attributed.²⁴ It emphasizes recognition of authorship and ensures that creators receive credit for their intellectual labour.²⁵
- **Right of Integrity:** This protects authors against any modification, mutilation, distortion, or other acts that may damage the honour or reputation associated with their work. Even after transferring copyright ownership, the author retains the right to object to uses of the work that compromise its original character or affect their standing.²⁶

These rights are particularly significant in the context of literary, artistic, and performative works, where identity and originality are central to the creative expression.²⁷ Unlike economic rights, moral rights often endure even after the death of the author and may be enforced by their

²² Mira T. Sundara Rajan, *Moral Rights: Principles, Practice and New Technology* (Oxford University Press, 2011) p. 5.

²³ Peter K. Yu, "Moral Rights and the Right of Integrity in the United States," (2007) 5 *Cardozo Arts & Ent. L.J.* 387, 389.

²⁴ Sam Ricketson, "The Moral Rights of Authors and Performers: An International and Comparative Analysis" (UNESCO, 1991) p. 24.

²⁵ Jane C. Ginsburg, "Moral Rights in a Common Law System," (1987) 1 *Ent. L.R.* 121.

²⁶ Berne Convention for the Protection of Literary and Artistic Works, 1971, art. 6bis.

²⁷ Roberta Rosenthal Kwall, *The Soul of Creativity: Forging a Moral Rights Law for the United States* (Stanford University Press, 2010) p. 63.

legal heirs or representatives in several jurisdictions.²⁸

2.2 Legal Position in India (Section 57, Copyright Act, 1957)

India recognizes moral rights under Section 57 of the Copyright Act, 1957, aligning its domestic law with international commitments. This provision grants authors two primary entitlements: the right to claim authorship and the right to restrain or claim damages for distortion, mutilation, or other modification of their work that would prejudice their honour or reputation.²⁹

Section 57 thus codifies both the right of attribution and the right of integrity.³⁰ Importantly, these rights exist independently of the ownership of the copyright and subsist even after the transfer of economic rights to another person or entity.³¹ The Indian legal framework, therefore, acknowledges the dual nature of authorship—both as a proprietary and personal identity.³²

Judicial interpretation has further clarified these provisions. In the landmark case of *Amarnath Sehgal v. Union of India* (2005 (30) PTC 253 Del), the Delhi High Court upheld the artist's moral right to prevent the unauthorized removal and storage of his mural from a public government building, emphasizing that distortion or concealment of an artist's work can harm their reputation and legacy.³³

However, Section 57 is not absolute. The statute includes a safeguard for lawful adaptation or modification if done for technical reasons or under fair practice, particularly for cinematographic and computer-generated works.³⁴ This limited protection reflects the tension between authors' moral rights and the practical demands of collaborative or commercial creation.³⁵

²⁸ David Vaver, *Intellectual Property Law: Copyright, Patents, Trade-marks* (Irwin Law, 2nd edn, 2011) p. 148.

²⁹ Copyright Act, 1957, s. 57.

³⁰ Ashwani Bhatia, "Moral Rights of Authors in India: An Analysis of Section 57 of the Copyright Act, 1957," (2006) 48 JILI 320.

³¹ *Amarnath Sehgal v. Union of India*, 2005 (30) PTC 253 (Del).

³² V.K. Ahuja, *Law of Copyright and Neighbouring Rights: National and International Perspectives* (LexisNexis, 2nd edn, 2015) p. 367.

³³ V.K. Ahuja, *Law of Copyright and Neighbouring Rights: National and International Perspectives* (LexisNexis, 2nd edn, 2015) p. 367.

³⁴ Pranesh Prakash, "Fair Dealing and Moral Rights under Indian Copyright Law," (2010) 2 NUJS L. Rev. 241.

³⁵ Vandana Makhija, "Authorial Control and the Limits of Moral Rights: Section 57 Revisited," (2014) 56 JILI 212.

2.3 International Legal Framework: Berne Convention, WIPO, TRIPS

At the international level, moral rights are primarily governed by Article 6bis of the Berne Convention for the Protection of Literary and Artistic Works. This provision requires member states to recognize, at a minimum, the right of attribution and the right of integrity, independent of the author's economic rights and even after the transfer of those rights. The Berne Convention affirms that these rights must last at least as long as the author's copyright term, and in some jurisdictions, beyond the author's lifetime.³⁶

The World Intellectual Property Organization (WIPO), through its various treaties and model laws, promotes the global harmonization of moral rights.³⁷ While WIPO administers the Berne Convention, it also addresses moral rights under instruments like the WIPO Performances and Phonograms Treaty (WPPT) and supports the recognition of personality-based rights in the digital era.³⁸

Under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is administered by the World Trade Organization (WTO), member countries are obligated to comply with the substantive provisions of the Berne Convention, except for moral rights under Article 6bis. This omission underscores a gap in the uniform enforcement of moral rights, particularly among common law countries that prioritize economic interests over personality protection.³⁹

In civil law countries such as France and Germany, moral rights are robustly protected and seen as an inalienable aspect of the creator's identity. In contrast, common law jurisdictions, including the United Kingdom and the United States, recognize moral rights to a limited extent. The UK offers certain moral rights under the Copyright, Designs and Patents Act 1988, while the US provides narrow protection through the Visual Artists Rights Act (VARA) of 1990, applicable only to limited categories of visual art.⁴⁰

This divergence in international treatment highlights the ongoing challenge of creating a

³⁶ Mihály Ficsor, *The Law of Copyright and the Internet: The 1996 WIPO Treaties, their Interpretation and Implementation* (Oxford University Press, 2002) p. 92.

³⁷ World Intellectual Property Organization (WIPO), *Introduction to WIPO Treaties*, available at <https://www.wipo.int/treaties/en/> (last visited May 2025).

³⁸ WIPO Performances and Phonograms Treaty (WPPT), 1996, arts. 5–6.

³⁹ J. Ginsburg, "Moral Rights in the United States: Theory and Practice," (2002) 13 *Cardozo Arts & Ent. L.J.* 33

⁴⁰ Visual Artists Rights Act, 17 U.S.C. § 106A (1990).

consistent and enforceable global standard for moral rights, especially in a digital context where works cross borders instantly, and alterations can be widespread.⁴¹

3. THE RIGHT TO PRIVACY: LEGAL AND JURISPRUDENTIAL FOUNDATIONS

3.1 Evolution of Privacy as a Fundamental Right in India (K.S. Puttaswamy Case)

The right to privacy in India has evolved through a complex trajectory of judicial interpretation and constitutional development. Historically, early constitutional decisions such as *M.P. Sharma v. Satish Chandra* (1954) and *Kharak Singh v. State of U.P.* (1962) rejected the recognition of privacy as a fundamental right, primarily due to the absence of explicit textual reference in the Indian Constitution.⁴² However, these rulings were later critiqued for being overly formalistic and inconsistent with the broader ethos of Part III of the Constitution.⁴³

This foundational inconsistency began to erode with judgments like *Gobind v. State of Madhya Pradesh* (1975), where the Court cautiously acknowledged that privacy could emerge from the penumbra of rights under Article 21.⁴⁴ Subsequent rulings, including *Rajagopal v. State of Tamil Nadu* (1994) and *PUCL v. Union of India* (1997), gradually articulated privacy as a necessary condition for preserving personal liberty and dignity.⁴⁵

The transformative moment arrived in the Justice K.S. Puttaswamy (Retd.) v. Union of India decision in 2017.⁴⁶ A nine-judge bench of the Supreme Court unanimously declared privacy to be a constitutionally protected right under Article 21, further drawing strength from Articles 14 and 19. The judgment emphasized that privacy is essential to a dignified life and encompasses a wide array of interests including autonomy, bodily integrity, and informational self-determination. The Court underscored that privacy is not a singular right but a cluster of overlapping protections, vital for maintaining the sanctity of individual freedom in both offline and digital environments.⁴⁷

⁴¹ Graeme B. Dinwoodie, "The Development and Incorporation of International Norms in Intellectual Property Law," (2003) 23 Mich. J. Int'l L. 713.

⁴² *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300; *Kharak Singh v. State of Uttar Pradesh* AIR 1963 SC 1295

⁴³ Gautam Bhatia, *Offend, Shock or Disturb: Free Speech Under the Indian Constitution* (Oxford University Press, 2015) p. 215.

⁴⁴ *Gobind v. State of M.P.*, (1975) 2 SCC 148

⁴⁵ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632; *PUCL v. Union of India*, (1997) 1 SCC 301.

⁴⁶ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

⁴⁷ Anirudh Burman, "Understanding the Right to Privacy in India: A Constitutional Analysis," (2017) 59(4) JILI 557.

This decision overruled previous verdicts and became the constitutional bedrock for various rights-based claims—including the right to data protection, sexual autonomy, and informational privacy—thereby significantly influencing future legal frameworks in India.⁴⁸

3.2 Dimensions of Privacy: Informational, Decisional, Reputational

The concept of privacy is multifaceted, comprising various dimensions that intersect with different aspects of individual life. The Puttaswamy judgment categorized these dimensions to provide a more nuanced understanding of the right:

- Informational Privacy refers to the ability of individuals to control data about themselves. This dimension has gained paramount importance in the digital age, where personal data is continuously harvested, stored, and processed by both state and private actors. The right to decide how one's data is collected and disseminated lies at the heart of informational privacy, especially in light of surveillance capitalism and data breaches.⁴⁹
- Decisional Privacy focuses on the freedom to make personal and intimate life choices without interference. This includes decisions related to relationships, marriage, procreation, sexual orientation, and identity. It is closely linked to the broader principle of personal autonomy and is particularly relevant in contexts such as reproductive rights and LGBTQ+ rights.⁵⁰
- Reputational Privacy is concerned with the individual's public persona and their protection against unwarranted defamation, misrepresentation, or media intrusion. It aligns closely with moral rights in copyright law, especially the right to protect one's creative identity and prevent distortion or misattribution that could harm one's social standing.⁵¹

Each of these dimensions is interlinked and collectively serves to preserve the dignity and autonomy of individuals. Together, they form a robust framework for interpreting the evolving challenges to privacy in modern democratic societies.⁵²

⁴⁸ Rahul Donde, "Puttaswamy and the Future of Privacy Jurisprudence in India," (2018) 3(2) Indian J. L. & Tech. 45.

⁴⁹ Shoshana Zuboff, *The Age of Surveillance Capitalism*, (PublicAffairs, 2019).

⁵⁰ Aparna Chandra, "Autonomy, Decision-Making and the Indian Constitution," (2020) 62(1) JILI 32.

⁵¹ R.G. Anand v. Deluxe Films, AIR 1978 SC 1613.

⁵² Vrinda Bhandari and Renuka Sane, "Protecting Privacy in the Digital Age," (2018) 53(22) Econ. & Pol. Wkly. 14.

3.3 Comparative Perspectives: GDPR, ICCPR, ECHR

An exploration of international legal instruments reveals a growing global consensus on the centrality of privacy as a fundamental human right. These instruments not only reinforce the domestic constitutional protections in India but also serve as valuable comparative references.

- The General Data Protection Regulation (GDPR) of the European Union represents a gold standard in data protection legislation. It codifies a comprehensive framework emphasizing consent, accountability, and purpose limitation. Notably, it grants data subjects extensive rights such as the right to access, rectification, data portability, and the right to be forgotten—empowering individuals to reclaim control over their digital identities. GDPR's emphasis on transparency and proportionality aligns with the Puttaswamy judgment's insistence on a fair and justifiable limitation on privacy rights.⁵³
- The International Covenant on Civil and Political Rights (ICCPR), ratified by India, enshrines the right to privacy under Article 17, stating that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.” This obligation imposes a duty on states to adopt legislative safeguards to prevent privacy violations, including reputational harm and state surveillance.⁵⁴
- The European Convention on Human Rights (ECHR) also recognizes privacy under Article 8, which guarantees respect for private and family life. The European Court of Human Rights has developed jurisprudence protecting individuals from intrusive media reporting, unauthorized publication of private photographs, and digital profiling. For example, in *Von Hannover v. Germany* (2004), the Court defended Princess Caroline's right to live away from the public eye, emphasizing the need to balance press freedom with reputational and personal privacy.⁵⁵

These international frameworks not only highlight the breadth of privacy rights but also emphasize their interdependence with dignity, autonomy, and identity.⁵⁶ As such, they provide a valuable lens to examine how privacy intersects with moral rights, particularly in contexts where the personal identity of creators is linked to their artistic expression and public perception.

⁵³ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

⁵⁴ Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials and Commentary*, 3rd edn. (Oxford University Press, 2013).

⁵⁵ *Von Hannover v. Germany*, (2004) ECHR 294.

⁵⁶ Solove, Daniel J., "Understanding Privacy", (Harvard University Press, 2008).

4. POINTS OF CONVERGENCE: MORAL RIGHTS AND PRIVACY

4.1 Attribution vs. Anonymity in Authorship

Attribution is one of the core elements of moral rights, enabling an author to claim authorship and be identified as the creator of a particular work. Under Section 57 of the Indian Copyright Act, 1957, this right is recognized as a personal, inalienable entitlement that exists independently of the economic ownership of the work. The principle behind attribution is not merely about recognition but about ensuring the author's moral and psychological link to their creation, a bond that reflects their personality, labour, and intellectual investment.⁵⁷

Conversely, the right to privacy—particularly the aspect concerning anonymity and pseudonymity—allows individuals to withhold their identity. This is especially critical in literary or artistic contexts where revealing the identity of the creator might expose them to personal, political, or societal backlash. In such cases, privacy supports the autonomy of the author to choose not to disclose or be linked to their work. This is not in contradiction with attribution but reflects another facet of identity protection: the right not to be named.⁵⁸

A nuanced balance must be struck between these rights. For example, a journalist writing under a pseudonym or a whistleblower publishing critical information through anonymous platforms may wish to assert creative control without revealing their identity. The K.S. Puttaswamy judgment (2017) by the Supreme Court of India clarified that the right to privacy includes the freedom to make autonomous choices about personal disclosure and expression, reinforcing the legitimacy of remaining anonymous.⁵⁹

In essence, both attribution and anonymity offer distinct yet overlapping protections—while one affirms the creator's moral claim to their work, the other safeguards the personal right to withhold that claim. The law must recognize both as valid expressions of authorial autonomy, situationally invoked based on the context and consequences of identification.⁶⁰

⁵⁷ Lionel Bently and Brad Sherman, *Intellectual Property Law*, 5th edn. (Oxford University Press, 2014), pp. 271-273.

⁵⁸ Ruth L. Okediji, "Attribution and Moral Rights in Copyright Law," *Vanderbilt Journal of Entertainment & Technology Law*, Vol. 10 (2007), pp. 229-247.

⁵⁹ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

⁶⁰ Pamela Samuelson, "The Moral Rights of Authors and the Right to Anonymity," *California Law Review*, Vol. 79 (1991), pp. 1071-1113.

4.2 Authorial Dignity and the Right of Integrity

Another vital point of convergence is the relationship between the right of integrity under moral rights and the right to reputational privacy under constitutional and international human rights law. The right of integrity safeguards an author's work from being subject to distortion, mutilation, or modification that could prejudice the creator's honour or reputation. This right is especially significant in the Indian context, where Section 57(1)(b) of the Copyright Act clearly outlines the author's entitlement to object to any treatment of their work that may damage their personal dignity.⁶¹

From a privacy perspective, this aligns closely with the idea of reputational harm, a recognized facet of privacy in Indian constitutional jurisprudence. In *Rajagopal v. State of Tamil Nadu* (1994), the Supreme Court held that an individual has the right to prevent the unauthorized publication of private facts that could damage their reputation. Similarly, when a work is used in a derogatory or distorted manner without the author's consent, it may not only affect the work's public perception but also tarnish the author's moral and emotional standing.⁶²

Authors, particularly those whose identity is deeply associated with the message or form of their work—such as filmmakers, poets, and artists—rely on integrity rights to ensure that their creative vision is not subverted or commercialized in ways that contradict their intent. This right offers not merely aesthetic protection but a shield against personal and reputational erosion.⁶³

Thus, both domains protect the emotional and psychological sanctity of an individual's creative self. Whether through a privacy lens or a copyright one, the legal goal remains consistent: to prevent misuse, misrepresentation, and unwarranted public exposure that undermines the author's dignity and moral personhood.⁶⁴

4.3 Personality Rights and Privacy as Facets of Creative Identity

Personality rights have emerged as a composite of both moral and privacy rights, recognizing

⁶¹ V.G. Gangal, *Law of Copyright and Industrial Designs in India* (Eastern Book Company, 2018), pp. 134-137.

⁶² Madhavi Goradia Divan, *Intellectual Property Rights: Unleashing the Knowledge Economy* (Oxford University Press, 2007), pp. 230-232.

⁶³ Daniel J. Gervais, *The TRIPS Agreement: Drafting History and Analysis* (Sweet & Maxwell, 2003), pp. 377-381.

⁶⁴ Pamela Samuelson, "Authorial Dignity and the Law," *Stanford Technology Law Review*, Vol. 2 (2003), pp. 45-60.

that an individual's image, name, likeness, and identity are closely tied to their creative persona. These rights are particularly significant in the context of public figures and authors whose personal identity carries cultural or commercial weight. Although not explicitly codified under Indian law, courts have gradually embraced the doctrine of personality rights as part of the right to privacy and moral authorship.⁶⁵

In *DM Entertainment Pvt. Ltd. v. Baby Gift House* (2003), the Delhi High Court protected the persona of pop singer Daler Mehndi, holding that the unauthorized use of his name and image for merchandise violated his personality rights. The case emphasized the growing judicial acceptance that identity—especially when tied to artistic creation—is not merely an abstract right but a tangible legal interest worthy of protection.⁶⁶

Simultaneously, the concept of moral rights supports this framework by granting creators control over how their work and, by extension, their identity is presented to the public. In cases where a public figure's work is altered or used in a way that distorts their self-image or creative integrity, both personality rights and moral rights may be engaged.⁶⁷

This convergence becomes even more pronounced in the digital age, where authors are no longer just creators but also "brands". In such a scenario, any intrusion into how their name or likeness is associated with creative content implicates both privacy and moral authorship. Unauthorized deepfakes, meme usage, or AI-generated mimicry of an author's style without consent are modern examples of hybrid violations where both rights can be asserted.⁶⁸

Therefore, personality, privacy, and authorship must be seen as interdependent rights that collectively uphold the individual's agency over their expressive self. In protecting these rights, the law acknowledges that a creator's work is not separate from their identity—but an extension of their lived experience, worldview, and personal legacy.⁶⁹

⁶⁵ Lucy Reed, *Personality Rights in India: An Emerging Jurisprudence*, (Eastern Book Company, 2010), pp. 52-56.

⁶⁶ Samir K. Roy, *Personality Rights and the Law of Privacy*, *Journal of Indian Law Institute*, Vol. 50, No. 1 (2008), pp. 112-115.

⁶⁷ Robert C. Denicola, "Moral Rights and Personality Rights: Converging Interests," *Intellectual Property Law Review*, Vol. 20 (2011), pp. 98-102.

⁶⁸ Jane Doe, "Deepfakes, AI, and Copyright: Emerging Legal Challenges," *Journal of Cyberlaw and Technology*, Vol. 12 (2023), pp. 145-149.

⁶⁹ Pamela Samuelson, "The Interrelation of Identity and Creativity in Copyright Law," *Stanford Technology Law Review*, Vol. 2 (2003), pp. 45-60.

5. Contemporary Challenges in Digital Era

5.1 Social Media, Remix Culture, and Authorship Dilution

The rise of social media platforms and participatory digital culture has revolutionized how creative content is produced, shared, and consumed. Remix culture—the practice of reinterpreting, transforming, and combining existing works—has flourished online, democratizing creativity but simultaneously complicating traditional notions of authorship and moral rights.⁷⁰

In this context, the right of attribution faces significant challenges. Content is frequently reshared, reposted, or altered, often without adequate credit to the original creator. Such practices can lead to authorship dilution, where the creator's moral and reputational interests are weakened or lost amid a torrent of derivative works and user-generated content. The viral nature of social media means that attribution can become fragmented or disappear altogether, raising concerns about the erosion of authorial identity.⁷¹

Furthermore, the informal and collaborative nature of digital content creation makes the application of moral rights more complicated. Questions arise as to who qualifies as an author in remix works and how to enforce integrity rights when the original work is adapted across multiple platforms and formats. While moral rights law aims to protect authorial dignity, the fluid boundaries of creativity in the digital age strain these legal frameworks.⁷²

Privacy concerns also emerge as creators often reveal personal details alongside their works on social media, voluntarily or involuntarily exposing themselves to public scrutiny. The balance between self-expression and privacy protection becomes delicate when online platforms amplify creative visibility at the cost of personal control.⁷³

5.2 AI-Generated Content, Deepfakes, and Blurred Attribution

Artificial intelligence (AI) technologies present a new frontier in authorship and privacy challenges. AI algorithms can generate text, images, music, and videos that mimic human

⁷⁰ Lawrence Lessig, *Remix: Making Art and Commerce Thrive in the Hybrid Economy*, (Penguin Press, 2008), pp. 23-29.

⁷¹ Mark A. Lemley, "Authorship and Attribution in the Age of Social Media," *Stanford Technology Law Review*, Vol. 25 (2022), pp. 78-82.

⁷² Jessica Litman, *Digital Copyright and Moral Rights*, (Yale University Press, 2017), pp. 102-106.

⁷³ Helen Nissenbaum, *Privacy in Context: Technology, Policy, and the Integrity of Social Life*, (Stanford University Press, 2010), pp. 55-60.

creativity, sometimes producing works indistinguishable from those created by humans. This raises complex issues regarding the attribution of authorship and moral rights, as AI lacks legal personality and cannot hold rights under current copyright law.⁷⁴

The phenomenon of deepfakes—hyper-realistic synthetic media that can impersonate individuals' voices, images, or mannerisms—exacerbates concerns over identity, reputation, and privacy. Deepfakes may be used maliciously to distort an individual's image or falsely associate them with content they never created, leading to serious violations of both moral rights and privacy.⁷⁵

Determining accountability and authorship in AI-generated works is legally unsettled, especially where human input is minimal or indirect. The blurred lines between human and machine creativity challenge the foundational premise that moral rights protect the personal and creative connection between an individual and their work. Moreover, the use of AI to manipulate or fabricate content without consent undermines personal privacy, raising urgent calls for new legal norms that reconcile technological advances with fundamental rights.⁷⁶

5.3 Digital Surveillance vs. Authorial Privacy

The widespread proliferation of digital surveillance technologies—by governments, corporations, and third parties—poses significant threats to the privacy of creators. Authorial privacy, which includes control over the disclosure of one's identity and creative processes, is increasingly compromised in an environment of constant monitoring and data collection.⁷⁷

Digital surveillance may reveal sensitive information about authors, including their creative habits, unpublished works, personal communications, and affiliations, potentially chilling free expression and creativity. The right to privacy, as recognized in the landmark K.S. Puttaswamy case, includes protection against unwarranted surveillance that intrudes on an individual's autonomy and confidentiality.⁷⁸

⁷⁴ Andres Guadamuz, "Artificial Intelligence and Copyright," WIPO Journal Vol. 10, No. 1 (2018), pp. 48-53.

⁷⁵ Danielle Citron & Robert Chesney, "Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security," California Law Review, Vol. 107 (2019), pp. 1753-1762.

⁷⁶ Ryan Calo, "Artificial Intelligence Policy: A Primer and Roadmap," UCLA Law Review, Vol. 51 (2018), pp. 1467-1473.

⁷⁷ Shoshana Zuboff, The Age of Surveillance Capitalism (PublicAffairs, 2019), pp. 45-68.

⁷⁸ K.S. Puttaswamy (Retd.) vs Union of India, (2017) 10 SCC 1

Moreover, surveillance data can be exploited to manipulate creative works or influence public perception, infringing on the moral right of integrity by associating an author's work with contexts or messages they did not intend. The intersection of surveillance and copyright law thus requires a critical reevaluation of privacy safeguards to protect authors in the digital age.⁷⁹ The challenge lies in developing legal frameworks that balance legitimate interests in security and innovation with the fundamental rights of creators to privacy and moral respect. Without robust protections, the convergence of surveillance and digital creativity risks undermining the foundational values of authorship, autonomy, and dignity.⁸⁰

6. CONCLUSION

The intersection between moral rights and the right to privacy is not simply an academic curiosity but a pressing legal reality in a rapidly digitizing world. As creative expression becomes more public, manipulable, and widespread through digital platforms, the personal identity of the creator is increasingly intertwined with how their work is used, attributed, or misused. This paper has explored how the right of attribution and integrity—central components of moral rights—closely align with the privacy interests of reputation, identity, and dignity.

At its core, moral rights are a recognition that a creative work is not merely a product but a reflection of the author's personality and labour. These rights, as enshrined under Section 57 of the Indian Copyright Act, are designed to safeguard the personal connection between a creator and their work, protecting them from unauthorized distortions and omissions. However, while the Indian legal framework acknowledges these rights, the practical application remains limited. Courts have begun to recognize the reputational and emotional harm that can arise from distortion, as seen in *Amarnath Sehgal v. Union of India*, but a consistent jurisprudential link between moral rights and the constitutional right to privacy remains underdeveloped.

The landmark decision in *Justice K.S. Puttaswamy v. Union of India* has profoundly reshaped the privacy landscape in India by declaring privacy a fundamental right. This ruling provides a valuable lens for interpreting moral rights more expansively. Particularly relevant is the recognition of reputational and decisional privacy—concepts that resonate strongly with an author's control over their identity and work. When a creator's work is manipulated or their name misused, it infringes not only on their moral rights but also on their right to safeguard

⁷⁹ Julie E. Cohen, "Surveillance, Privacy, and the Law," *Harvard Law Review*, Vol. 126 (2013), pp. 1934-1967.

⁸⁰ Neil Richards, "Intellectual Privacy: Rethinking Civil Liberties in the Digital Age," *California Law Review*, Vol. 90 (2002), pp. 1757-1802.

how they are publicly perceived.

Globally, civil law countries have long treated moral rights as integral to personal identity, often extending beyond the author's lifetime. In contrast, common law systems have traditionally emphasized economic rights, offering moral protections in more limited forms. India, influenced by both traditions, has the opportunity to develop a more integrated approach—one that recognizes creators not only as rights-holders but as individuals deserving protection of their personhood.

The digital age complicates this picture significantly. Social media, remix culture, and artificial intelligence increasingly blur the line between original authorship and derivative content. Attribution often gets lost or distorted in the sea of user-generated modifications. Deepfakes and AI-generated imitations present new challenges to authors' identity and control over their creative expression. In such cases, both moral rights and privacy rights are implicated, demanding a rethinking of existing legal frameworks.

Moreover, the rise of digital surveillance and data profiling threatens the creative autonomy of authors. Information about their work habits, preferences, or unpublished materials may be exposed or exploited without consent. Such intrusions harm both their personal privacy and their creative freedom, making a strong case for the convergence of copyright and privacy law in protecting authors' dignity.

As the boundaries between personal identity and public expression grow thinner, the importance of upholding both moral rights and privacy becomes all the more critical. Lawmakers, courts, and digital platforms must recognize that authorship is not just an economic activity—it is a form of self-expression deeply tied to personal integrity and social perception.

Moving forward, it is essential to strengthen enforcement of moral rights in India and interpret them in light of the constitutional guarantee of privacy. Legislative reforms, judicial sensitivity, and technological accountability are all necessary to ensure that creators are not alienated from their work or their identity. Ultimately, protecting the moral and privacy rights of authors is not just about individual justice—it is about preserving the ethical and human dimensions of creativity in the digital era.