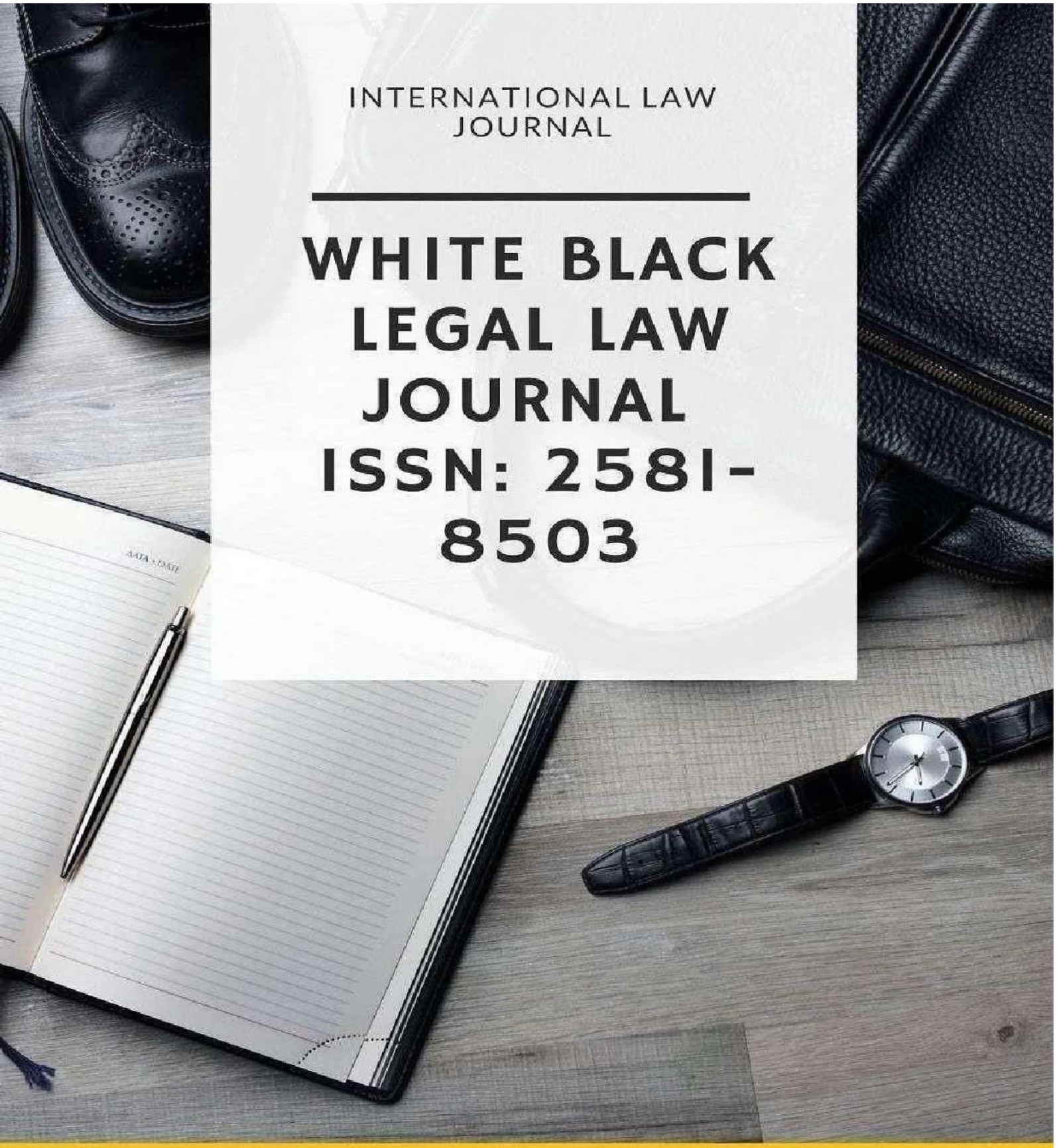


INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

WHITE BLACK LEGAL

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

www.whiteblacklegal.co.in
Volume 4 Issue 2 | Oct 2026 ISSN: 2581-8503

SUCCESSION, STEWARDSHIP, AND THE PUBLIC DOMAIN: INTERGENERATIONAL EQUITY IN INDIA'S INTELLECTUAL PROPERTY REGIME

AUTHORED BY - ANKITA BHATNAGAR
Research Scholar, Apex School of Law, Apex University, Jaipur

CO-AUTHOR - DR. BABITA CHUGH
Professor, Apex School of Law, Apex University, Jaipur

Abstract

This article examines how Indian law allocates intellectual property after an individual creator or proprietor dies and asks whether succession rules preserve a fair relationship between present owners, future generations, and the public. Using doctrinal analysis of copyright, patents, trademark, design, plant-variety and geographical – indication statutes, relevant Indian decisions, and international instruments, it distinguishes transmissible economic entitlements from personal, registered and collectively held interests, The central claim is that inheritance does not itself create a new monopoly: it carries forward only the interest the deceased owned, subject to the original statutory term, public-interest limitations, and the formalities attached to each right. Indian copyright law provides the clearest succession framework, while other regimes rely more heavily on general property and registry rules. This unevenness increases title uncertainty, transaction costs and unequal access to cultural and scientific works. The article proposes a modest stewardship model: clearer probate and registry procedures, accessible records of ownership and licensing, proportionate support for heirs, stronger safeguards for attribution and integrity and reliable routes to use orphaned or unexploited works. Such measures can protect community knowledge as a private estate within a plural legal order.

Keywords: Intergenerational Equity; Intellectual Property; succession; Copyright; Public legitimate family interest without delaying entry into the public domain or treating Domain; India; Stewardship

1. Introduction

Intellectual property is often discussed as a relationship between a creator, a market, and the public. Death adds a fourth actor: the successor who may own, administer, license, preserve, or restrict the work after the creator can no longer decide. An inherited copyright, patent, or trade mark is not simply a family asset. Its exercise may affect authorship, access to books and medicines, cultural memory, research, and the ability of later creators to build on existing material. The legal question is therefore not whether heirs deserve property in the abstract, but what precisely passes, for how long, subject to which duties, and with what public endpoint.[1]

The inquiry is especially significant in India, where creators and small enterprises often rely on informal contracts, family administration, and fragmented registration records. A right may be divided among co-authors, assignees, producers, heirs, and collecting societies; the registry may still show the deceased; and succession may depend on the personal law applicable to the estate. These conditions can make a formally transferable right practically unusable. At the other extreme, a successor who acquires a time-limited right may treat it as perpetual control over a cultural work or a technology that society eventually expects to enter the public domain. [2]

This article advances a bounded-continuity thesis. Succession should preserve an existing entitlement where the deceased held a transferable right, but it should not enlarge the right, restart its term, or erase its public-interest limits. That proposition sounds simple yet is applied unevenly across Indian IP statutes. Copyright contains express rules on transmission, unpublished manuscripts, posthumous works, moral rights, and term. Patent and trade mark legislation permit transmission and recordal but do not build an equivalent estate-administration framework. Design law is registration-centred. Plant varieties, geographical indications, and traditional knowledge raise a further question: some legally protected interests are collective or custodial and should not be treated as ordinary inheritable property.[3]

A September 2026 article has already examined the broad relationship between inherited IP, public access, and intergenerational justice under a closely similar title. This article uses a distinct title and develops a narrower India-centred account of title devolution, registry practice, and successor stewardship across different statutory regimes. It separates four questions commonly collapsed in succession disputes: identification of the asset, identification of the

[1] The Copyright Act, 1957, ss. 14, 17, 20, 22; TRIPS Agreement, arts. 7–8.
[2] World Intellectual Property Organization, World Intellectual Property Indicators 2024 (WIPO, 2024); Copyright Act, 1957, ss. 18–20
[3] Copyright Act, 1957, ss. 17–20, 22–29, 57; Patents Act, 1970, ss. 68–69; Trade Marks Act, 1999, ss. 37– 45; Geographical Indications of Goods (Registration and Protection) Act, 1999, ss. 21, 24

deceased's title, devolution under succession law, and post-death administration of the right. It then compares transfer architecture across major Indian IP regimes and proposes a practical stewardship framework that protects heirs and communities while preserving statutory expiry and public access. The method is doctrinal and socio-legal in orientation: statutes, rules, reported decisions, treaty obligations, and scholarship are interpreted in light of the social consequences of uncertainty and concentrated control. No field interviews or quantitative dataset are claimed.[4]

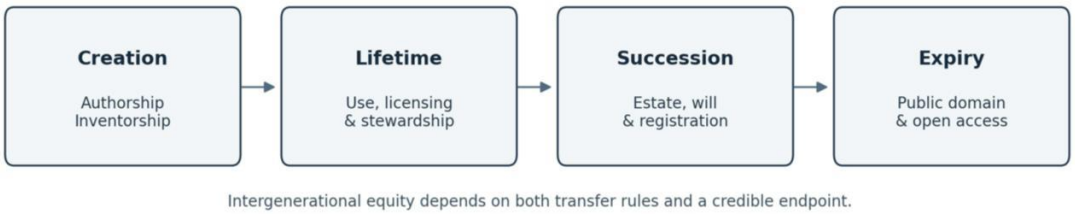


Figure 1. The life cycle of an intellectual property right and its public endpoint.

2. Conceptual Framework and Method

2.1 Intergenerational equity as a legal lens

Intergenerational equity is used here as a principle of fair distribution across time, not as a free-standing rule that overrides enacted rights. In environmental law, the idea is usually associated with conserving options, quality, and access for future generations. In intellectual property, its application is more complex because an exclusive right is designed to be temporary and instrumental: it may reward creation or investment, but it must coexist with learning, competition, follow-on creativity, and eventual public use. The relevant balance is not between "private property" and "the public" as absolutes. It is between a justified period of control and the conditions under which knowledge can circulate and support later innovation. [5]

The analysis distinguishes three temporal interests. The first is the creator's and successor's interest in recognition and economic return. The second is the present public's interest in access, competition, education, and cultural participation. The third is the future public's interest in receiving an effective public domain rather than a nominal one burdened by uncertain title, inaccessible archives, or long-lived control over works whose owners cannot be

[4] Bhatnagar, A., & Chugh, B. (2026). Intergenerational equity and inheritance of intellectual property rights: A socio-legal analysis. International Journal of Creative Research Thoughts, 14(9), a230–a240. The present article uses a distinct title and an India-centred analysis of succession, registry practice, and stewardship.

[5] Brown Weiss, E. (1989). In fairness to future generations: International law, common patrimony, and intergenerational equity. United Nations University; TRIPS Agreement, art.

found. These interests can conflict, but transparent title and orderly expiry often advance all three. [6]

2.2 Property, personality, and stewardship

IP is a bundle of rights rather than one indivisible object. A copyright may include reproduction, adaptation, communication, and distribution rights; a patent confers a time limited right to exclude specified acts; a registered mark protects a sign in relation to specified goods or services; a design right is tied to a registered design and statutory term. Moral interests, such as attribution and protection against prejudicial distortion, are analytically distinct from economic title. A successor may control commercial exploitation without becoming the author or acquiring an unlimited authority over the author's personality.[7]

The term "stewardship" describes a modest normative duty, not a claim that every heir is a fiduciary in law. A successor should be able to preserve a work, receive royalties, and prevent unauthorised exploitation. But law and institutional practice can also encourage successors to keep provenance, honour documented creator preferences, license unused works on fair terms, and cooperate with preservation and accessibility institutions. Stewardship is strongest where it is grounded in existing statutory duties, probate administration, contracts, collective rights, or carefully designed safe harbours; it should not become an undefined moral burden imposed on families.[8]

2.3 Method and scope

The article uses a comparative doctrinal matrix of copyright, patents, trade marks, designs, plant-variety protection, and geographical indications. The primary sources are current Indian enactments and rules, selected Indian judgments concerning succession, ownership, assignment, and moral rights, and the Berne Convention and TRIPS Agreement. Comparative references are limited to established principles that clarify the policy problem; foreign rules are not imported as Indian law. The socio-legal claim is correspondingly limited: fragmented records and unequal access to legal support can make statutory rights difficult to exercise, but the article does not estimate the prevalence or monetary scale of those effects.[9]

---

[6] Bently, L., Sherman, B., Gangjee, D., & Johnson, P. (2022). Intellectual property law (6th ed.). Oxford University Press

[7] 7Copyright Act, 1957, ss. 14, 17, 18, 57; Patents Act, 1970, ss. 48, 68–69; Trade Marks Act, 1999, ss. 28, 37–45.

[8] Sundara Rajan, M. T. (2025). The moral rights of authors and artists: From the birth of copyright to the age of artificial intelligence (2nd ed.). Oxford University Press

[9] Berne Convention for the Protection of Literary and Artistic Works, arts. 6bis, 7; Agreement on Trade-

3. The Normative Architecture

3.1 The creator's interest and its limits

The Constitution of India does not create a general, perpetual IP entitlement. Copyright and patents are statutory rights, structured through legislation under Parliament's lawmaking powers. Article 300A protects persons from deprivation of property except by authority of law, but it does not convert every statutory monopoly into a right immune from the conditions, term, and limitations Parliament enacted. Article 51A(h) laces scientific temper and humanism among citizens' duties, while the constitutional commitment to education, culture, and equality informs the public context in which IP rules operate. These provisions support a balanced interpretation, not a shortcut around statutory text.[10]

International instruments likewise combine protection and public purposes. The Berne Convention requires protection of authors' rights, including posthumous terms and moral rights, while TRIPS states that IP protection should contribute to technological innovation and transfer, mutual advantage, and social and economic welfare. TRIPS also reserves members' authority to adopt measures necessary to protect public interests, consistent with the Agreement. The international framework therefore accommodates both succession and bounded exclusivity; it does not require states to lengthen an inherited monopoly beyond the ordinary term.[11]

3.2 Succession is derivative, not creative

The core doctrinal distinction is between succession and creation of title. An heir succeeds only to whatever bundle of rights the deceased owned at death. If the author previously assigned the publishing right, the estate cannot reclaim it merely because succession has opened. If a patent was co-owned, the deceased's share is transmitted subject to the co ownership arrangement and statutory rules. If an employee, commissioning party, producer, or assignee was the first owner under the governing statute or contract, the family may inherit no economic copyright in that work. This makes chain-of-title evidence central: a death certificate identifies the transfer event, not the asset or the deceased's ownership. [12]

Ordinary succession law supplies the route by which property devolves, subject to the applicable personal law, will, and procedural requirements. The Indian Succession Act, 1925

Related Aspects of Intellectual Property Rights, arts. 7, 8, 13

[10] Constitution of India, arts. 19(1)(a), 21A, 39(b), 51A(h), 300A; Copyright Act, 1957; Patents Act, 1970

[11] Berne Convention, arts. 6bis, 7; Agreement on Trade-Related Aspects of Intellectual Property Rights, arts. 7–8, 13.

[12] Copyright Act, 1957, ss. 17–20; Patents Act, 1970, ss. 68–69; Indian Succession Act, 1925, ss. 57, 63, 213.

applies broadly to testamentary succession but contains personal-law and territorial qualifications; the Hindu Succession Act, 1956 governs intestate succession for persons within its scope. Because an IP right is intangible and may be registered or contractually divided, an estate inventory should identify each right, registration number, co-owner, license, royalty stream, renewal or annuity date, and term expiry. A generic bequest of "all property" may transfer the right legally while leaving successors unable to prove or manage it efficiently. [13]

4. Transmission Across Indian IP Regimes

Table 1. Succession questions differ by right type

Right/ Interest	What may pass at death	Distinct Limit
Copyright	Economic rights owned by deceased; remaining term	Prior assignment, statutory exceptions, fixed term; moral rights distinct
Patent	Patent or share and associated interests	Written evidence, recordal, maintenance fees, fixed term
Trademark	Registered or unregistered mark interest	Goodwill, statutory assignment limits, quality/ source function
Design	Registered proprietor's interest	Recordal and fixed statutory term
Plant variety / GI	Breeder interest or collective authorised- use position	Farmers'/community rights; representative governance

4.1 Copyright: the most developed succession framework

The Copyright Act, 1957 begins with statutory categories of protected works and identifies the author according to the type of work. Section 17 sets the author as first owner, subject to exceptions including certain employment and commissioned works. Sections 18 and 19 regulate assignment; section 20 addresses transmission by operation of law, including the special treatment of a manuscript not published before the testator's death. Sections 22–29 provide different terms depending on the work and ownership category. For ordinary literary, dramatic, musical, and artistic works, the term is the author's life plus sixty years, calculated from the beginning of the calendar year following death.[14]

Section 20 is unusually important because it expressly connects copyright and estate

[13] Indian Succession Act, 1925; Hindu Succession Act, 1956, ss. 8, 15–16; see also J. Surendran v. Sudha Vijayakumar, Madras High Court (21 June 2012).
[14] Copyright Act, 1957, ss. 2(d), 13, 17–19, 22–29.

administration. Where a person is entitled to copyright under a bequest and the work was not published before death, the Act provides a rule for the intended legatee; where there is no testamentary disposition, the copyright devolves as part of the estate under applicable succession law. This is a transfer of the remaining term, not a fresh term. A posthumous publication can raise separate term questions under section 24, and those rules should not be confused with a general extension caused by inheritance. [15]

Indian decisions illustrate why a right-by-right inquiry is necessary. In J. Surendran v. Sudha Vijayakumar, the Madras High Court treated copyright in an article not specifically dealt with in the deceased author's will as having devolved by intestate succession, then considered how the successor's interest passed on her later death. The court rejected the notion that an heir's failure to assert ownership during life automatically extinguished title. The case underscores both the transmissibility of copyright and the importance of the applicable personal succession rules. [16]

In Sellappapa Keeran v. S. Vijayaraghavan, the Madras High Court distinguished the author's underlying literary discourse from the sound recording and examined who qualified as author or producer under the Act. The claimant's status as a legal heir could establish a claim only to the rights that the deceased actually owned. R. Indira Devi v. G. Satyaki similarly demonstrates that disputes among heirs may turn on assignment, revocation, notice to co-heirs, and documentary proof, not merely on kinship. Together, these decisions caution against treating "the copyright" as a single family asset. [17]

Moral rights complicate the picture. Section 57 preserves the author's special rights independently of assignment, including the right to claim authorship and to restrain or claim damages for certain prejudicial distortions. In Amar Nath Sehgal v. Union of India, the Delhi High Court gave substantial weight to integrity interests in a commissioned mural. The case supports a distinction between economic ownership and the author's continuing relationship to the work. Section 57(2) expressly permits the author's legal representatives to exercise the statutory rights after death. That does not convert moral rights into economic copyright or give successors an unlimited veto; the remedy remains bounded by the provision's terms, the cause of action, and the facts.[18]

[15] Copyright Act, 1957, ss. 20, 24.
[16] J. Surendran v. Sudha Vijayakumar, Madras High Court, O.S.A. No. 127 of 2010, judgment dated 21 June 2012.
[17] Sellappapa Keeran v. S. Vijayaraghavan, Madras High Court, C.S. No. 241 of 2004, judgment dated 24 October 2002; R. Indira Devi v. G. Satyaki, Telangana High Court, CCCA No. 255 of 2018, judgment dated 25 January 2024.
[18] Copyright Act, 1957, s. 57; Amar Nath Sehgal v. Union of India, 2005 (30) PTC 253 (Del).

4.2 Patents: transmission with registry formalities

The Patents Act, 1970 treats patents as assignable and transmissible property, but requires instruments of assignment, mortgage, or licence to be in writing and duly executed; the register is the public record of title and interests. Sections 68 and 69 govern execution and registration of assignments and other interests. Succession by operation of law can therefore coexist with formal proof requirements before an heir is recorded or can efficiently transact. The patent term remains tied to the grant date and statutory duration; death and inheritance do not reset it. [19]

A patent estate may include more than a right to exclude. It may carry obligations to pay renewal fees, comply with licences, observe co-ownership agreements, and respond to challenges. Missing a fee can cause lapse; failing to identify a prior licence can lead to disputes with a successor who assumes the patent is unencumbered. A stewardship approach would make a patent schedule part of probate practice and permit the Patent Office to accept standardised evidence of succession, while maintaining safeguards against competing claims.[20]

4.3 Trade marks and designs: continuity depends on distinctiveness and recordal

Under sections 37–45 of the Trade Marks Act, 1999, registered and unregistered marks may be assigned or transmitted subject to statutory limits, including rules addressing confusion, associated marks, and goodwill. Succession does not sever the sign from the commercial source it identifies. Heirs who inherit a mark but do not preserve quality control, business continuity, or accurate ownership records risk consumer confusion and dilution of the mark's function. The right is not a general right to control a word or symbol in every context; its scope remains tied to goods or services and the applicable infringement and passing-off rules. [21]

The Designs Act, 2000 allows a registered proprietor's interest to be assigned, transmitted, or otherwise transferred, with recordal requirements. A design's commercial value can decline quickly as products and technologies change. Inheritance proceedings that take years may consume a significant part of the practical market life even when the formal term continues. Registry procedures should therefore be accessible to personal representatives, with clear notice to co-owners and creditors and no extension of the statutory term.[22]

4.4 Collective and community-based rights

Plant-variety protection and geographical indications expose the limits of an individual estate

[19] Patents Act, 1970, ss. 48, 53, 68–69; Patents Rules, 2003, r. 90.
[20] Patents Act, 1970, ss. 53, 60, 68–69; Patents Rules, 2003, rr. 90–92.
[21] Trade Marks Act, 1999, ss. 28, 37–45, 48–49.
[22] Designs Act, 2000, ss. 11, 30; Designs Rules, 2001, r. 33.

model. A plant variety certificate may vest in a breeder or successor, while the Protection of Plant Varieties and Farmers' Rights Act, 2001 also recognises farmers' rights and benefit-sharing structures. A GI is registered for goods whose qualities or reputation are attributable to a geographical origin; its authorised users and registered association reflect a collective relationship. These regimes protect different interests from a private copyright or patent, and the death of one member or officer cannot logically transfer the community's collective entitlement to that person's heirs.[23]

Traditional knowledge, genetic resources, and associated community practices raise a related but distinct concern. The Biological Diversity Act, 2002, as amended in 2023, and access-and-benefit-sharing rules regulate access to biological resources and knowledge in their statutory scope. The central intergenerational issue here is not simply whether a community has an IP right that can be inherited. It is whether customary custodianship and benefit-sharing interests can survive the death of particular knowledge holders without being privately appropriated, extinguished, or reduced to an individual estate. Collective governance and documented community protocols are better suited to that task than ordinary intestate succession.[24]

5. Intergenerational Risks and Distributional Effects

5.1 Fragmented title and the orphan-work problem

When a right passes through multiple estates without a traceable chain of title, later users face a dilemma: seek permission from every possible successor or avoid using the work. This can affect out-of-commerce books, unpublished recordings, family archives, local language materials, photographs, and research outputs. The problem is not solved by giving heirs fewer rights in every case. It is reduced by reliable ownership records, simple succession recordal, collective licensing, proportionate diligence standards, and carefully bounded mechanisms for works whose owners cannot be located after a genuine search.[25]

Copyright's term of life plus sixty years intensifies the practical effect of uncertainty because protection may continue for decades after the author's death. Yet extending the term further would not necessarily deliver more income to heirs; it could instead increase transaction costs and delay preservation or reuse. The relevant policy question is whether the successor can be

[23] Protection of Plant Varieties and Farmers' Rights Act, 2001, ss. 14, 28, 39, 41; Geographical Indications of Goods (Registration and Protection) Act, 1999, ss. 17, 21, 24.

[24] Biological Diversity Act, 2002, as amended by the Biological Diversity (Amendment) Act, 2023; Biological Diversity Rules, 2024; Protection of Plant Varieties and Farmers' Rights Act, 2001, s. 41

[25] Copyright Act, 1957, ss. 31A, 31B, 52; WIPO, Standing Committee on Copyright and Related Rights, Limitations and Exceptions for Libraries and Archives, SCCR/40/3 (2020).

identified and contacted, whether the right remains commercially exploited, and whether the contemplated use has a public or cultural value that current exceptions do not adequately address.[26]

5.2 Unequal capacity to inherit and administer

Succession law distributes property through rules that vary by personal law, family structure, will, and estate procedure. The family member who has time, money, literacy, and access to counsel may become the de facto administrator even where several heirs share beneficial interests. Women, children, relatives outside the household, and heirs living far from the registry may have difficulty obtaining records or enforcing royalty claims. These are not claims that every estate produces gendered exclusion; they are institutional risks that justify plain-language notices, accessible registry pathways, and preservation of all heirs' claims during recordal. [27]

Intangible assets are especially easy to omit from a will or probate schedule because they do not look like land, jewellery, or bank deposits. An author may leave a catalogue of works, royalty statements, publishing agreements, passwords, domain names, and social media accounts scattered across private platforms. The estate may not know what to ask for. Public agencies and collecting societies can reduce that asymmetry through model inventories, creator-side documentation tools, and a secure, limited-purpose process for notifying successors. [28]

5.3 Intergenerational enclosure and public-domain delay

Inheritance is not inherently enclosure. The intergenerational harm arises when a derivative right is misdescribed as perpetual, when a successor blocks access beyond the statutory term, or when the cost of clearing rights keeps a work unavailable even after the creator's legitimate term has ended. The public domain is not merely a legal category; it requires that users can determine expiry, establish provenance, and access a usable copy. Archives, libraries, educational institutions, and digitisation projects need predictable rules for preservation, access, and orphaned material. [29]

[26] Copyright Act, 1957, ss. 22–29; Bently et al. (2022), Intellectual property law, ch. 7.
[27] Hindu Succession Act, 1956, ss. 8, 15–16; Indian Succession Act, 1925, pt. VI.
[28] World Intellectual Property Organization, WIPO IP Diagnostics (2021); Patents Act, 1970, s. 69; Trade Marks Act, 1999, s. 45.
[29] Benkler, Y. (2006). The wealth of networks: How social production transforms markets and freedom. Yale University Press; Sen Gupta, T. (2024). Intellectual property law in India. Kluwer Law International.

The Supreme Court's copyright jurisprudence recognises that copyright protects expression rather than ideas and has interpreted educational exceptions with attention to the purpose of the Act. R.G. Anand v. Deluxe Films affirms the idea-expression distinction; the Delhi High Court's decision in the Rameshwari Photocopy litigation reads section 52(1)(i) in the setting of course instruction. These authorities do not decide succession disputes, but they establish that an heir's control operates within statutory boundaries that protect learning and future creation.[30]

5.4 Cultural integrity and living creators

Heirs may also protect a creator from misattribution, mutilation, or exploitative commercial use. This interest has social value, particularly for works that carry cultural or political meaning. But integrity claims need workable standards. A successor's dislike of criticism, parody, translation, restoration, or scholarly interpretation should not automatically become a veto over lawful uses. A balanced framework would distinguish false attribution, materially prejudicial distortion, and ordinary transformative engagement, and would account for the statutory exceptions and the author's documented wishes. [31]

6. A Stewardship Framework for India

Table 2. Proposed measures and their safeguards

Reform lever	***Safeguard***	***Expected Benefit***
Fixed Term	Expressly state that succession does not restart the clock	Certainty for heirs and public users
Estate Statement	Optional, revocable record of rights, contracts, and contacts	Lower search and probate costs
Interim Representative	Temporary authority with notice and sale limits	Prevents lapse and preserves royalties
Orphan-work licence	Diligent search, notice, opt-out, remuneration, Review	Enables preservation and limited Reuse
Community Protocols	Representation, benefit distribution, dispute Rules	Protects collective and custodial interests

[30] R.G. Anand v. Deluxe Films, (1978) 4 SCC 118; University of Oxford v. Rameshwari Photocopy Services, 2016 SCC OnLine Del 6229.
[31] Copyright Act, 1957, s. 57; Amar Nath Sehgal v. Union of India, 2005 (30) PTC 253 (Del); Sundara Rajan (2025), The moral rights of authors and artists.

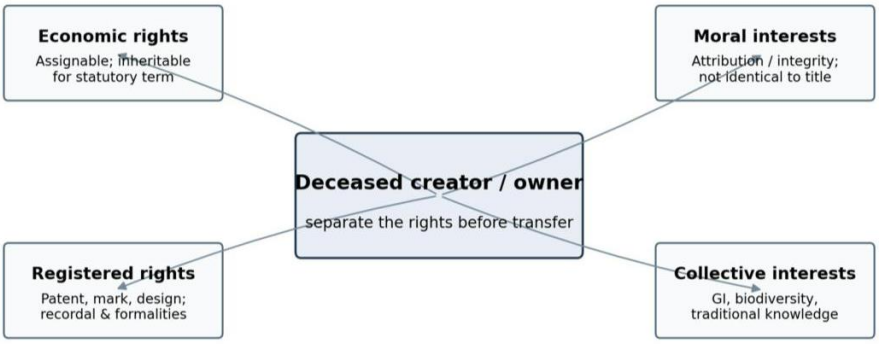


Figure 2. Four analytically distinct interests may surround a deceased rights-holder

6.1 Keep the statutory term fixed

First, legislation and administrative guidance should state plainly that succession transfers the remaining term and does not restart, renew, or enlarge it. This principle is already implicit in the structure of India's term provisions, but it should be made explicit across regimes to reduce contradictory registry practice and public misunderstanding. It also aligns private return with the public-domain endpoint that gives limited exclusivity its intergenerational legitimacy. [32]

6.2 Make title legible at death

Second, India should create a simple, optional IP estate statement that creators and registered proprietors can update during life. It could identify works and applications, registrations, co-owners, licences, collecting-society mandates, royalty accounts, renewal dates, and chosen contacts. The record should be revocable, privacy-protective, and evidentiary rather than conclusive: it would assist executors but not override a valid assignment, will, or statutory rule. A registrar-to-probate notice protocol could alert the relevant IP office when a right-holder dies, subject to safeguards against disclosure of confidential information. [33]

6.3 Enable fair administration and accessible licensing

Third, registries should publish standard checklists for transmission by succession, accept digital documentation where lawful, and provide a process to record a personal representative temporarily while competing claims are resolved. An interim representative could preserve the asset, pay annuities, collect royalties, and grant non-exclusive preservation licences, but should

[32] Copyright Act, 1957, ss. 22–29, 53; Patents Act, 1970, s. 53; Trade Marks Act, 1999, s. 25; Designs Act, 2000, s. 11.
[33] WIPO, WIPO IP Diagnostics (2021); Copyright Act, 1957, ss. 18–20; Patents Act, 1970, ss. 68–69.

not be able to sell the core right without notice and authority under estate law. Such a mechanism would limit both asset decay and opportunistic transfers. [34]

For works that are out of commerce or whose successors cannot be located after diligent search, India could consider a limited, non-exclusive licence for preservation, research, education, or accessible formats, with remuneration held for a later-identified owner. Safeguards should include searchable notices, opt-out, transparent search standards, non discrimination, and judicial review. Any scheme must remain consistent with international obligations and with existing statutory exceptions; it should not transform the mere passage of time into compulsory confiscation. [35]

6.4 Protect moral and collective interests

Fourth, creator-side documentation should allow authors to record preferences about attribution, restoration, translation, access, and posthumous publication. Such directions would guide heirs and courts without displacing mandatory law. For community-based rights, governance documents should specify representation, benefit distribution, succession of office-holders, and dispute resolution. The successor to a community representative should inherit the role only through the community's own legitimate procedures, not simply by kinship.[36]

6.5 Improve evidence and legal literacy

Finally, public agencies, universities, collecting societies, and professional associations should provide accessible guidance on inheritance of IP. A short succession checklist, sample clauses, and an online route to search registered rights would prevent avoidable disputes. Legal aid and mediation are especially important where royalties are small relative to the cost of court proceedings. Reporting anonymised data on transmission applications, objections, and processing times would allow policymakers to assess whether reform improves access without undermining legitimate remuneration.[37]

[34] Patents Act, 1970, ss. 69–70; Trade Marks Act, 1999, ss. 45, 58; Designs Act, 2000, s. 30.
[35] Copyright Act, 1957, ss. 31A–31B, 52; Berne Convention, art. 9(2); TRIPS Agreement, art. 13.
[36] Copyright Act, 1957, s. 57; Protection of Plant Varieties and Farmers' Rights Act, 2001, ss. 41, 42; Geographical Indications of Goods (Registration and Protection) Act, 1999, ss. 11, 17, 21.
[37] Ministry of Commerce and Industry, DPIIT, National Intellectual Property Rights Policy (2016); WIPO IP Diagnostics (2021).

7. Objections and Responses

One objection is that stewardship duties could weaken property rights and discourage families from investing in a creator's work. That concern is valid if stewardship becomes an open-ended obligation to license or disclose private material. The proposal avoids that result: it preserves the statutory term, title, and ordinary remedies, while using opt-in documentation, proportionate recordal, narrowly defined temporary administration, and non-exclusive licences only under legislated conditions. Heirs remain entitled to commercial returns during the existing term. [38]

A second objection is that the public domain already supplies the endpoint, so no additional intergenerational framework is needed. Formally, expiry is clear; practically, title uncertainty and inaccessible copies can prevent use long after expiry. Public-domain status must be legible and works must be preservable. This is a governance and records problem, not a reason to shorten every copyright term. Similarly, community rights require institutional continuity because a private estate model cannot represent a collective beneficiary. [39]

A third objection is that IP rights are too heterogeneous for a single reform. This is correct and supports a modular solution. Copyright needs succession rules, moral-rights clarity, and orphan-work pathways; patents and designs need predictable registry recordal and maintenance; marks need continuity and quality control; plant varieties and GIs need representative governance; traditional knowledge requires community-centred safeguards. The common principle is derivative continuity under the originating regime, not uniformity of substantive rights. [40]

8. Conclusion

The inheritance of intellectual property is a point at which private law, cultural memory, innovation policy, and public access meet. Indian law already recognises that many IP interests can pass at death. The difficult work is to identify the asset, determine what the deceased owned, apply the correct succession route, and administer the right without confusing an

[38] TRIPS Agreement, arts. 7–8, 13; Copyright Act, 1957, ss. 18–20, 22–29.
[39] Copyright Act, 1957, ss. 22–29, 31A, 52; WIPO, Limitations and Exceptions for Libraries and Archives, SCCR/40/3 (2020).
[40] Patents Act, 1970, ss. 68–69; Trade Marks Act, 1999, ss. 37–45; Designs Act, 2000, s. 30; PPVFR Act, 2001, ss. 28, 39, 41; GI Act, 1999, ss. 17, 21.

inherited interest with a new or perpetual entitlement. Copyright jurisprudence shows that heirs can succeed to a creator's rights, but only within the statutory bundle, term, contract history, and applicable succession law. Patent, trade mark, design, plant-variety, and GI regimes add distinct recordal or collective-governance concerns. [41]

A fair intergenerational settlement does not ask heirs to surrender legitimate value. It asks the legal system to make that value legible, preserve the creator's documented interests, and keep the statutory public endpoint real. Fixed terms, accessible succession records, temporary administration, fair licensing routes for genuinely unlocatable owners, and community-led governance can reduce uncertainty while protecting remuneration. The governing principle is bounded continuity: rights may cross generations, but their scope and duration remain those set by law, and future generations retain the access the law promised them. [42]

References

- ✓ Bently, L., Sherman, B., Gangjee, D., & Johnson, P. (2022). Intellectual property law (6th ed.). Oxford University Press.
- ✓ Mahalwar, V. (2026). Access to knowledge in the developing world: The role of international copyright law. Oxford University Press.
- ✓ Narayanan, P. (2025). Intellectual property law (3rd ed.). Eastern Law House.
- ✓ Reddy, S. V. D. (2025). Textbook of intellectual property rights (9th ed.). Asia Law House.
- ✓ Sen Gupta, T. (2024). Intellectual property law in India. Kluwer Law International.
- ✓ Sundara Rajan, M. T. (2025). The moral rights of authors and artists: From the birth of copyright to the age of artificial intelligence (2nd ed.). Oxford University Press.
- ✓ Bhatnagar, A., & Chugh, B. (2026). Intergenerational equity and inheritance of intellectual property rights: A socio-legal analysis. International Journal of Creative Research Thoughts, 14(9), a230–a240.

[41] Copyright Act, 1957, ss. 17–20, 22–29, 57; Patents Act, 1970, ss. 53, 68–69; J. Surendran v. Sudha Vijayakumar (Madras High Court, 21 June 2012).
[42] TRIPS Agreement, arts. 7–8; Berne Convention, arts. 6bis, 7; Copyright Act, 1957, ss. 20, 22–29.