

## **Recognizing the Socio-legal Hurdles and Formulating Actionable Insights for Protection of Traditional Cultural Heritage through Copyright Law in India**

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### **Abstract**

*India is a member to WIPO (World Intellectual Property Organization). As a WIPO member, India has participated in negotiations at WIPO over years and Indian delegates have robustly contributed in such rounds to shape intellectual property rights for developing nations over decades. It is interesting here to note that the WIPO and its “Intergovernmental Committee (IGC) on IP and Genetic Resources, Traditional Knowledge and Folklore” has been working over decades and trying to develop uniform international binding legal instruments for protection of traditional knowledge and traditional cultural expressions as intangible assets. India also has dynamic intellectual property laws in fulfillment of its international obligations, but there is no law in India that explicitly talks about protection of Indian traditional cultural heritage. Cultural economy can help India to become a global power due to its diversity in customs, rituals, languages, practices including traditional attire, dance, music and songs, local cuisine, etc. It is through this prism that this paper will locate the socio-legal issues relating to protection of traditional cultural heritage and suggest through draft provisions how Copyright Act in India may be amended to accommodate traditional cultural expressions.*

**Keywords:** *Indian cultural heritage, traditional cultural expressions, WIPO, Draft Articles, genericide of culture, copyright, internet imitations, tribal, shared cultural heritage.*

### **I. Introduction**

The Ministry of Culture, Government of India had in 2021 formulated a new scheme titled “*Scheme for Safeguarding the Intangible Heritage and Diverse Cultural Traditions of India*” to revitalize, protect and promote traditional

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cultural heritage of India<sup>2</sup>. Traditional Cultural Heritage within its ambit may refer to wide variety of cultural expressions like performing art, traditional practices of communities, language, ritualistic signs and symbols, folk dance and music, oral traditions, traditional craftsmanship, etc<sup>3</sup>. Internationally, *World Intellectual Property Organization's* (hereafter referred to as WIPO) has been debating, consulting national representatives to formulate an international binding agreement for protection of traditional knowledge, traditional cultural expressions and intellectual property associated with genetic resources<sup>4</sup>. But India, a country of rich history, cultural diversity and population does not have a dedicated legislation on protection of traditional cultural heritage.

This article is an attempt to identify the possible socio-legal challenges that Parliament may face while drafting a legislation on protection of traditional cultural expressions in India. Part II of this article highlights the challenges in determining what is 'traditional' for India. Part II focuses on whether cultural heritage in India has faced the unique challenge of becoming generic due to traditional communities living in close proximity with mainstream culture. Part IV highlights the impact of internet and imitations on cultural economy in India. Part V focuses the problems which have given arisen due to colonial past and India's shared cultural history with its neighbors. Part VI is an attempt by the author to devise how the Copyright Act, 1957 can be adopted through amendments to accommodate protection of traditional cultural expressions within Indian copyright regime. The article ends with a table of draft provisions along with current provisions of Copyright (amended) Act, 2012 which can act as a guide for revamping the current copyright laws in India.

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<sup>2</sup>*Measures taken by Government to preserving and promoting the traditional cultural heritage of India*, PRESS INFORMATION BUREAU, GOVERNMENT OF INDIA (Feb. 8, 2021, 5:41PM), <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1696226>.

<sup>3</sup>UNESCO, *Convention for the Safeguarding of the Intangible Cultural Heritage*, 2003, <https://ich.unesco.org/doc/src/18440-EN.pdf>.

<sup>4</sup>WIPO, *Draft Provisions for the Protection of Traditional Knowledge and Traditional Cultural Expressions and Draft Texts of IP & Genetic Resources*, INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE FORTY-FOURTH SESSION, (Sept. 12-16, 2022), [https://www.wipo.int/tk/en/igc/draft\\_provisions.html](https://www.wipo.int/tk/en/igc/draft_provisions.html).

## II. Determining scope of ‘traditional’ in India.

A unique challenge in attempt to protection Indian Traditional Cultural Heritage is the question– what is traditional in India? Traditional cultural heritage is understood commonly in broad sense as folklore, folklore songs, ritual chants, tribal motifs and artworks, oral narratives from indigenous communities, dance forms and traditional performances, etc. If a tourist visits any Indian city, she will be attempted by local cuisine, folk music, traditional attires, tribal dances and popular Bollywood songs. This triggers the basic question whether local, folk, traditional, tribal (Adivasi), popular all synonymous terms in India? To further understand this problem relating to determination of ‘traditional cultural heritage’ in India, let us look into the following questions:

- Whether Bhangra a local dance form in India? Yes
- Whether it a cultural heritage? Yes
- Can it be considered folk? Yes
- Whether it is part of traditional practices? Yes
- Can it be designated as Tribal dance form of Punjab? NO
- Is it popular dance form in India? Yes

Bhangra is a traditional folk-dance form of Punjab from Sialkot region which traditionally was performed by farmer communities from Punjab as a communal harvesting celebration and is accompanied by short songs called *boliyan* and the dance is performed to the beats of *dhol*.<sup>5</sup> According to an annual report (2003-2004) from Union Ministry of Tribal Affairs in India, Punjab has no tribal population, which means though Bhangra is an extremely popular traditional folk-dance form, it cannot be categorized as tribal or Adivasi dance form.

This above exercise is critical to understand the multi-faced dimensions of population in India and why a legislation targeting only protection of tribal people or folk cultural heritage would not be an effective protection regime for covering whole of Indian traditional cultural heritage. It is important here to refer to WIPO’s special agency “*Intergovernmental Committee On Intellectual Property And Genetic Resources, Traditional Knowledge And Folklore’s*

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<sup>5</sup>Gurdeep Pandher, *Bhangra History*, <https://gurdeep.ca/bhangra/bhangra-history/>.

(hereafter referred as IGC)” report<sup>6</sup> explaining the scope of ‘traditional’ and ‘traditional cultural expressions (hereafter referred to as TCEs)’.

According to IGC WIPO’s recent explanation, ‘traditional cultural expressions’ are not essentially ancient or dead but are constantly “*developing and evolving and being recreated*” and may include contemporary adaptations which are developed maintaining the communal continuity with a community’s history, practices and nature<sup>7</sup>. Similarly, an expression or work can be labelled as traditional if it is premised on traditions and rituals of a community and fits in the wider identity of the community subjecting it to communal custodianship<sup>8</sup>. Thus, for India as a member to WIPO, it is important to realize that traditional cultural heritage is an evolving concept which in strict sense will include tribal practices along with community cultural practices but in wider context can over the inter-mingling in traditional cultural practices with main-stream population of India.

Reliance on provisions of the Constitution of India under Article 29 which is titled as “*Protection of interests of minorities*” gives any section of Indian society which has distinct language, script or culture the right to conserve the same and the scope of this Article is not limited to Scheduled Tribes or Scheduled Castes<sup>9</sup>. Thus, Article 29 can become foundation for formulation of TCE related policy in India which is neutral in its applicability to citizens of India as long as the community claiming protection and rights thereunder have claims based on distinct cultural heritage. Such policy may also translate the fundamental duty

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<sup>6</sup> WIPO, “*The Protection of Traditional Knowledge: Draft Gap Analysis: Revision*, INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE Thirteenth Session (Oct. 13 to 17, 2008) and WIPO/GRTKF/IC/13/5(b) Rev. (for TK), [https://www.wipo.int/edocs/mdocs/tk/en/wipo\\_grtkf\\_ic\\_13/wipo\\_grtkf\\_ic\\_13\\_5\\_b\\_rev.doc](https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_13/wipo_grtkf_ic_13_5_b_rev.doc) and WIPO, *The Protection of Traditional Cultural Expressions: Draft Gap Analysis*, INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE Thirteenth Session (Oct. 13 to 17, 2008) WIPO/GRTKF/IC/13/4(b) Rev, [https://www.wipo.int/edocs/mdocs/tk/en/wipo\\_grtkf\\_ic\\_13/wipo\\_grtkf\\_ic\\_13\\_4\\_b\\_rev.doc](https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_13/wipo_grtkf_ic_13_4_b_rev.doc).”

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup>INDIA CONST. Art. 29.

under Article 51A(f) “to value and preserve the rich heritage of our composite culture.” as a mandatory duty for every citizen<sup>10</sup>.

While multiple elements of traditional cultural heritage can come within the subject matter of copyright laws under Section 13 of the Copyright Act like literary works, artistic works, dramatic works, sound recording etc., the challenge arises on grounds of who will be bestowed with the authorship or ownership of such copyright, terms of protection, nature of rights guaranteed, scope of infringement as well as fair use. Before even delving into the questions of protection of traditional cultural heritage through copyright laws, the unique challenges posed by traditional cultural heritage is to be looked into.

### III. Genericide of Indian traditional cultural heritage?

Gond community is one of the primary ethno-linguistic communities of central and south-central regions of India. On the question of what can come within the scope of Gond Art the following quote from a community representative is important:

*“There is no doubt that he is an exception and herein lies our point: he is giving pictorial form to many of the Pardhān Gond deities which perhaps do not have sanction in traditional practice. His renderings are not iconic images taken and repeated from communal usage. As his works are not based upon any formulated design sanctified by repetition, can they truly be called . . . expressions of Gond or Pardhān art. (Swaminathan 1987: 48).”*<sup>11</sup>

The person referred in the above quote is the world-famous artist Jangarh Singh Shyam from Pradhan community of Gond<sup>12</sup> tribals (a recognized scheduled tribe from Madhya Pradesh) who is said to have “brought folk art to the forefront of urban consciousness”<sup>13</sup>. Pradhans, as per Gond tribal culture, are storytellers and hereditary bards who had been traditionally entrusted the duty of spreading tales

<sup>10</sup>INDIA CONST. Art. 51A.

<sup>11</sup>The “Many Deaths of a Pardhān: Akhilesh on Jangarh Singh Shyam,” (Aug. 8, 2021), <https://www.thebeacon.in/2021/08/08/the-many-deaths-of-a-pardhan-akhilesh-on-jangarh-singh-shyam/>.

<sup>12</sup>“Gond People, BRITANNICA, <https://www.britannica.com/topic/Gond>.”

<sup>13</sup>Vandana Kalra, *Imagine a forest: “The art of Gond artist Jangarh Singh Shyam and its enduring legacy twenty years after his death,”* INDIAN EXPRESS (April 24, 2022, 6:59:24 am), <https://indianexpress.com/article/express-sunday-eye/imagine-a-forest-art-gond-artist-jangarh-singh-shyam-enduring-legacy-7883266/>.

of Gond legends<sup>14</sup>. However, Jangarh Singh Shyam's work has evolved over the years. There are concerns that his school of Gond art did not any more had association with original Gond traditional practices and where more individualistic expressions than Gond traditional expressions<sup>15</sup>.

While evolution of traditional practices is a core nature of traditional knowledge as discussed previously, departure from original communal usage and catering to urbanized taste of population puts a question whether they can be called authentic to Gond culture. Such diversification in expressing once culture may be due to individual creativity, demand from customer or societal evolution with time. But whether such artifacts can be called "tribal" or "traditional" is a question left open for the public and legislators. Many countries like Ghana recognizes protection to such derivative work from original folklore as separate category of work which is subject to permission and payment of fees<sup>16</sup>. Such problem is not unique to Gond elements of cultural heritage but a common problem prevailing among different cultures prevalent in India.

While India being a TRIPs Agreement compliant country has the *Geographical Indications Act, 1999*; the Act is often propounded as cornerstone for protection of cultural heritage of communities.<sup>17</sup> This is because the protection under the Act of 1999 is non-transferrable and only inheritable<sup>18</sup>, can be renewed from time to time which the distinctive link of the good with the place is maintained<sup>19</sup> and only association of producers of goods or organization or authority established by or under any law who represents interests of the producers of the goods can be proprietor of the geographical indication and not an individual person.<sup>20</sup>

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<sup>14</sup> *Gonds*, ENCYCLOPEDIA, <https://www.encyclopedia.com/social-sciences-and-law/anthropology-and-archaeology/people/gond>.

<sup>15</sup>*Id.*

<sup>16</sup> The Ghana Copyright Act, 2005 (Act 690), Section 44.

<sup>17</sup> Sania Gupta, *Geographical Indication: An Indian Outlook*, vol.3:2 *Indian Journal of Law and Legal Research*

<sup>18</sup> "The Geographical Indications of Goods (Registration and Protection) Act, No. 48, Acts of Parliament, 1999 (India), at s. 24."

<sup>19</sup>*Id.*, at s. 18; See also, "Manisha Singh, *Role of Geographical Indications in The Field of Traditional Knowledge*, MONDAQ" (Feb. 4, 2008) <https://www.mondaq.com/india/Intellectual-Property/56866/Role-Of-Geographical-Indications-In-The-Field-Of-Traditional-Knowledge>.

<sup>20</sup>*Supra* note 18, at s.11.

However, traditional, and cultural expressions of India have faced a unique challenge of genericide where though the good may be connected in mind with a community, place, or practice, it is available from other sources at cheaper price or as duplicate copies.

### **CASE STUDY: Impact of consented commercialization of Warli Paintings: Moving from Folk to Popular Art?**

Another example can be how increasingly commercialization of tribal rituals, practices and cultural works has led dangerously close of such cultural heritage becoming popular art status rather than folk art is the case of commercialization with consent of Warli paintings from Warli Tribe of Thane District of Maharashtra. Traditionally Warli Paintings have a feminist tone as they were mainly created by women which rice paste on wall<sup>21</sup> and they were traditional paintings celebrating marriages and other auspicious events where nature plays major role in such paintings. The paintings were crude and used slanting lines, triangles, and spirals. As Seth says: “*So the central motif in each ritual painting is the square, the Cauk or Caukat, inside which is a Palaghat, the Mother Goddess, symbolizing fertility.*”<sup>22</sup>

But in contemporary times, Warli paintings are being made by men (like internationally acclaimed and Padma Shri Awardee 2011 Warli artist Jivya Soma Mashe<sup>23</sup>), the contemporary Warli paintings use newer mediums like cloth, paper and are moving towards mainstream art like including buildings, vehicles, airplanes etc..<sup>24</sup>.

For example, Coca-Cola’s 2010 festive campaign “Come Home on Deepawali” used Warli characters marching home as designed by Warli artist Nitin Anand

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<sup>21</sup>Sweta Akundi, *What Warli folklore says about the tribe*, THE HINDU (NOV. 07, 2019), <https://www.thehindu.com/society/what-warli-folklore-says-about-the-tribe/article29899123.ece>.

<sup>22</sup>Radhika Seth, *Warli Folk Paintings: An Insistent Expression (Thesis)*, SHODH GANGA (Feb. 20, 2015).

<sup>23</sup>*Acclaimed “Padma Shri artist Jivya Soma Mashe dead,”* TIMES OF INDIA (May 15, 2018, 17:07 IST), <https://timesofindia.indiatimes.com/life-style/spotlight/acclaimed-padma-shri-artist-jivya-soma-mashe-dead/articleshow/64176050.cms>.

<sup>24</sup>Aishwarya Javalgekar, *Warli Art: From Folk to Popular*, ACADEMIA (May 15, 2018) [https://www.academia.edu/21277456/Warli\\_Art\\_From\\_Folk\\_to\\_Popular](https://www.academia.edu/21277456/Warli_Art_From_Folk_to_Popular).

Dabholkar who took it as opportunity to revive the ancient artform<sup>25</sup>. But such increased contact with the commercialized world may slowly corrupt the ancient style of Warli paintings and it will lose its cultural essence due to urban commercial influence. Thus “*Warli paintings are a theft of the art form from women. Most women are now isolated from the process [...]*”<sup>26</sup>

Similarly, when BATA used the Warli Art on footwear and marketed under tagline “*Wear the Story of Survival*”; BATA claimed it an allegory to celebrate the ancient paintings which survived through ages, but the use elements of such traditionally ceremonies paintings on footwear goes largely against Indian culture and concept of respect and is an insult to sentiments to Warli tribes<sup>27</sup>.



**Official BATA Twitter post launching Warli paintings on chappal.<sup>28</sup>**

Thus, the commercialization examples show how folk in India has moved to a status of popular culture instead of being solely indigenous or traditional culture. This was shown in cases involving various saree draping styles in India moving towards popular culture also.<sup>29</sup> These recent adaptations of Warli paintings as discussed above

<sup>25</sup> “*Coca-Cola India celebrates ancient Warli folk art form – Launches*, BUSINESS STANDARD (Jan. 21, 2013)”, [https://www.business-standard.com/article/press-releases/coca-cola-india-celebrates-ancient-warli-folk-art-form-launches-110101200123\\_1.html](https://www.business-standard.com/article/press-releases/coca-cola-india-celebrates-ancient-warli-folk-art-form-launches-110101200123_1.html).”

<sup>26</sup> *Supra* note 21.

<sup>27</sup> *Appropriation and insult of tribal culture: BATA uses Warli art on its footwear*, (Dec. 24, 2018), <http://adivasiresurgence.com/2018/12/24/appropriation-and-insult-of-tribal-culture-bata-uses-warli-art-on-its-footware/>.

<sup>28</sup> Official Tweet of BATA India, TWITTER (Oct. 5, 2018), [https://twitter.com/bata\\_india/status/1046633306165571585](https://twitter.com/bata_india/status/1046633306165571585) (Showing Page does not exist as on Feb, 2026).

<sup>29</sup> Sunanda “*Bharti, Saree Draping Styles as ‘Traditional Cultural Expressions’ (TCEs)*, SPICYIP (June 24, 2019), <https://spicyip.com/2019/06/saree-draping-styles-as-a-traditional-cultural-expression-tce.html>.”

and many other types of cultural expressions like folk songs, dances, inscriptions, etc. can be subject matter for copyright law in India. Thereby, it is crucial to analyze if copyright norms can be adjusted to accommodate and protect traditional cultural heritage of India.

But it is to be acknowledged that many traditional cultural heritages in India by virtue of their nature and age from date of creation are already in public domain. Such cultural expressions are free for use, not only the members of original community to whom the TCEs originate from but also everyone else in society. The ‘*works in the public domain*’ like works of literature, art and monuments of history which are currently not benefiting from the copyright protection but would have done so had it existed, or had they been eligible for such protections still need to be protected from misappropriation by third parties. These issues have added up to the problem for Indian legislators in drafting legislation for protection of traditional cultural expressions.

#### **IV. Internet and Innumerable Imitations of TCEs**

In fast space internet and digital technologies era, TCEs are being copied, imitated and sold over internet beyond boundaries. Internet and technology have facilitated not only the original producers of traditional cultural communities to reach out to global market; it has also made possible imitators to sell counterfeits online. As reflected through the quote below, a viable market is necessary for promotion and achievement of full commercial potential of a product of cultural heritage.

*“Developing marketable uses for third-world cultural products is ‘ultimately perhaps the most effective way to protect their traditions.’ Increasingly, third-world artisans recognize that ‘except in a museum setting, no traditional craft skill can be sustained unless it has a viable market.’”<sup>30</sup>*

In 2018, the “*United Nations Permanent Forum on Indigenous Issues* (hereafter referred as *UNPFII*)” commissioned an update on how to accommodate intellectual property issues within the wider framework of human rights of

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<sup>30</sup>Madhavi Sunder, *The Invention of Traditional Knowledge*, 70 (2) *Law and Contemporary Problems*, 97–124 (2007).

indigenous communities.<sup>31</sup> The WIPO IGC prepared the *WIPO “Draft Articles on Traditional Knowledge, Traditional Cultural Expression and Genetic Resources”* and in 2022 conducted a Technical Review of the Draft Articles<sup>32</sup>. This Technical Review stated a differing level of protection to be accorded to traditional cultural expressions based on its status within the concerned community as “*sacred or secret*” or “*widely known or longer intensively used*”. The level of protection to be offered under law is highest for “*sacred or secret*” TCEs and goes down to “*respectful use*” for more publicly used TCEs.



The status of Indian traditional cultural heritage is majorly no more in the sacred or secret category but in the widely known and used outside community where such works premised on traditional heritage is used or reproduced not only by community but others who have acquired the skills. However, popularity and demand for such folk artefacts of Indian origin are humongous and in names of tribal art, many such paintings, sculptures, artifacts are even available through various online platforms for global consumers.

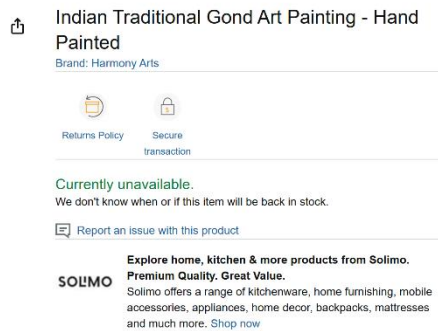
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<sup>31</sup>Elifuraha Laltaika, “*Update of The Technical Review of Key Intellectual Property related Issues of The WIPO Draft Instruments on Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions Within The Framework Of Indigenous Human Rights*”, WIPO/GRTKF/IC/42/INF/8 (2022)

[https://www.wipo.int/edocs/mdocs/tk/en/wipo\\_grtkf\\_ic\\_42/wipo\\_grtkf\\_ic\\_42\\_presentation\\_laltaika.pdf](https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_42/wipo_grtkf_ic_42_presentation_laltaika.pdf)

<sup>32</sup>*Id.*

For example: Amazon hosts hand painted arts titled “*Indian Traditional Gond Art Painting - Hand Painted*”<sup>33</sup> where product description claims that the Gond paintings originate from Gond tribal community who are spread across Madhya Pradesh and neighboring states and are amongst the biggest aboriginal communities of Central India and the paintings depict the everyday life images of this community inspired by legends and myths.



#### Image of product as listed in AMAZON platform<sup>34</sup>

However, whether the product in actual is Gond painting or not, cannot be ascertained as it is not being offered for sale by any government agency neither the government has granted such recognition as a reliable or identifiable seller on Amazon. Thus, the authenticity of the product being of Gond Community origin is not assertible.

While factually the description of Gond community as provided on concerned product webpage is correct, there is no product certification to prove the paintings being offered for sale are painted by Gond tribe members. Though Amazon as an intermediary has offered an option to “report incorrect product information”, but question remains whether a suitable remedy under copyright realm in India is available in case the product does not originate from the Gond Community per se.

<sup>33</sup>*Indian Traditional Gond Art Painting - Hand Painted*, <https://www.amazon.in/Indian-Traditional-Gond-Art-Painting/dp/B071RYJZN4>.

<sup>34</sup> *Id.*

While Indian geographical indication laws are often used as a tool for establishment of product-place connection, indirectly connecting to the community in descriptive manner because of human factors involved in making the product, cheaper counterfeits suiting consumer interest and low standard of vigilance from Government makes it tougher for enforcement of rights of GI holders. The only resource possible under copyright realm is perhaps if “right against attribution” back to the community would be recognized under Indian copyright regime under the broader realm of moral rights.

There are many more examples of such influence of digital technology and internet on how cultural contents are exploited through creation, dissemination, access and consumption among by money-oriented businesses across the world. It is important however to note that in digital ecology a wider audience can be reached, and the supply and demand chain can be much more connected in linear fashion than in the physical world where it is primarily haphazard and in person possibility of a sale.

#### **V. Shared Cultural Heritage with Neighboring Countries.**

The cultural commonality between India and its neighboring countries Pakistan, Bangladesh, Nepal, Bhutan is evident in food, fabrics, festivals, and day to day lifestyle of people. The shared colonial history, unity as a territory pre-partition, same/similar religious practices, territorial and terrain closeness, and people being of South Asian ethnicity is some of the many factors which has led to India’s shared cultural heritage with its neighbors. With such close and similar cultural practices and territorial nature of intellectual property rights, transborder trade in cultural artifacts can be confusing for the rest of the world. India has already locked horns over Basmati Rice with Pakistan, the only other Basmati rice exporter in the world<sup>35</sup>. When the European Commission published application and called for opposition for grant of ‘*protected geographical indication*’ status to India for Basmati Rice, Pakistan vehemently opposed the same in 2020.<sup>36</sup> This was followed by Nepalese government deciding to oppose

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<sup>35</sup>Pooja Pillai, “*Explained: Why India and Pakistan are battling over basmati*, INDIAN EXPRESS (Jun. 17, 2021), <https://indianexpress.com/article/explained/explained-india-and-pakistans-battle-over-basmati-7357044/>.”

<sup>36</sup>Daniel Boffey, “*Basmati battle: Pakistan fights Indian bid for EU recognition of rice*, THE GUARDIAN (Oct. 29, 2020),

India's GI claim over basmati rice<sup>37</sup>. The foreign market being competing ground for cultural artifacts, even indigenous cultural expressions has opened new chapters for rivalry between neighbors in recent times.

### **CASE STUDY- NAKSHI KATHA/ নকশীকাঁথা: A shared cultural expression between West Bengal, India, and Bangladesh**

Nakshi Katha or needle artwork on quilts as the literal translation states are made traditionally from worn out sarees and other cloth fabrics and is a part of quintessential rural Bengal household. The ragged fabrics are layered together with running stitches making beautiful motifs and inquisitive themes whereby stories are weaved into the embroidered blanket. The cultural intermingling with daily lives of rural Bengal and this so-called poor man's quilt is conveyed in words of Padmaja:

[..]. *“the most endearing gift exchanged at birth, death or marriage, the seat of honor offered to welcome guests, the mark of respect for the dead, the wandering fakirs drape, the personal wallet for carrying little valuables or a wrap for any other precious possession, Kantha in Bengal is not any frozen art stored behind museum glass, it is an integral part of the lives of the country folk.”*<sup>38</sup>

Nakshi Katha though might not be categorized as tribal art, it falls as a TCE in the arena of 'widely held' by Bangali community. In India, Nakshi Kantha is already registered as Geographical Indication (GI) under Handicraft for State of West Bengal.<sup>39</sup> In Bangladesh, Mymensingh, Rajshahi, Faridpur and Jessore are most famous for Katha works.<sup>40</sup> Until any sui generis TCE legislation is legislated and in force in India, GI laws are suitable for collective interest of the concerned community. But shared cultural heritage should be one of the points of focus for such prospective TCE legislation as it is an acknowledgment of

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[https://www.theguardian.com/world/2020/oct/29/basmati-battlepakistan-fights-indian-bid-for-eu-recognition-of-rice.](https://www.theguardian.com/world/2020/oct/29/basmati-battlepakistan-fights-indian-bid-for-eu-recognition-of-rice)”

<sup>37</sup>Pratyush “Nath Upreti, *The Battle for Geographical Indication Protection of Basmati Rice: A View from Nepal*, 54 *Int'l Rev. Intell. Prop. & Competition L.* 710 (2023), [https://doi.org/10.1007/s40319-023-01323-w.](https://doi.org/10.1007/s40319-023-01323-w)”

<sup>38</sup>Shanti “Kumari Thakur and Sayantani Roy, *Story Telling Through Nakshi Kantha: A Semiotic Study On Folk Art Of Santiniketan, West Bengal.*” 2:5 *IJARIE* 2395 (2016).

<sup>39</sup>*Supra* note 21.

<sup>40</sup>Mohammad Towhidul Islam and Md. Habib, “*Introducing Geographical Indications in Bangladesh*, 24:1 *DHAKA UNIVERSITY LAW JOURNAL* 62 (2016).”

shared historical continuity culturally across borders. The Geneva Act of Lisbon System offers the option of homonymous geographical indications whereby member countries can jointly apply for registration of a GI when coming from two areas of different territories.<sup>41</sup> While India is not yet a party to Lisbon system, with its colonial past and partition history India needs to up its game on cooperation with its neighbour on transboundary protection of shared cultural heritage which as a principle is being embodied currently in the Draft Articles of WIPO on Protection of TCEs.<sup>42</sup>

It is interesting to find the domestic political background which motivated India to not implement or ratify the provision relating to right to self-determination under United Nations “Declaration on the Rights of Indigenous Peoples” (hereafter referred as UNDRIP), though India voted for the same in United Nations General Assembly (hereafter referred as UNGA). India’s adoption of the term “scheduled tribe” under the Constitution and thereafter enacting various laws for protection and development of scheduled tribes has created a ripple effect confusion regarding the scope of TCEs in India. Local communities or other ethnic groups apart from Scheduled Tribes contribute significantly to the rich cultural heritage of India. There is no separate legislation for the protection of TK or TCEs in India. Though the “*Protection of Traditional Knowledge Bill, 2016*” was introduced to codify a *sui generis* law, it has failed to materialize into an act. In recent times, “The Protection of Traditional Knowledge Bill, 2022” was introduced in Parliament of India but the same could not transform into legislation. Similarly, an analysis of the provisions of the *Copyright Act, 1957* also reveals that there is no mention of traditional cultural heritage, folklore or cultural expressions under the subject matter of copyright law in India, but it can be indirectly brought under various provisions of the Act for protection. This is a proof of dismal laws in a country like India with strong cultural heritage.

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<sup>41</sup>“Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications art. 11(3), May 20, 2015,” WIPO Doc. LI/DC/19.

<sup>42</sup>*Supra* note 4, art. 14.

In words of Shashi Tharoor<sup>43</sup>:

*“India is not, as people keep calling it, an underdeveloped country, but rather, in the context of its history and cultural heritage, a highly developed one in an advanced state of decay.”*<sup>44</sup>

It can be concluded that:

- There is a void in the arena of legal and regulatory framework in India for the protection and commercial utilizations of TCEs.
- Further the existing copyright law does not incorporate the international guiding principles drafted at WIPO for protection of TCEs even though India is a member to such organizations and have participated in such major deliberations.

It is however pertinent to note that the “one size fits all” approach for protection of traditional cultural heritage through intellectual property laws in general and copyrightability of indigenous intellectual creations in specific is problematic<sup>45</sup>. While certain aspects of traditional cultural expressions might fit within the framework of copyright regime because there might not be a fundamental clash between intellectual property rights and legitimate economic demands on commercialization of traditional intellectual creations and its adaptations. However, the issues relating to privacy/confidentiality, claimants’ recognition in status, perpetual nature of custodianship over such property by traditional communities are beyond grasp of intellectual property regime. While copyright rules can and do apply to certain forms of expressions of folklore without modification, the others need copyright law to adapt to the nature of traditional cultural heritage so that maximum coverage can be given for protection of TCEs. Therefore, it can be said that the existing copyright law in India needs revamping

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<sup>43</sup>Shashi Tharoor was formerly Under-Sec. Gen. of the UN for Communications and Public Information. He submitted the Private Bill on Protection of Traditional Knowledge 2016 in India which never turned into law. *See generally*, Laxmi Prasanna, “MP Shashi Tharoor submits Private Bill in Parliament to protect Traditional Knowledge, TIMES OF INDIA (Oct. 30, 2016, 00:10 IST), [http://timesofindia.indiatimes.com/articleshow/55135261.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/55135261.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst).”

<sup>44</sup>SHASHI THAROOR, *BOOKLESS IN BAGHDAD* 27 (Penguin Books India 2005).

<sup>45</sup>*See generally*, “Robert K Paterson & Dennis S. Karjala, *Looking Beyond Intellectual Property in Resolving Protection of the Intangible Cultural Heritage of Indigenous Peoples*, 11 CARDOZO J. INT’L & COMP. L. 633 (2003).”

through appropriate amendments to become an apt tool for protection of intellectual property rights of indigenous communities.

## **VI. Actionable Insights for Government of India**

Copyright law has simultaneously evolved with society over hundreds of years to adapt and accommodate newer subject matters, rights, and fair uses under copyright regime. For instance, it was not possible for copyright law to accommodate newer subject matters relating to the digital world like computer software, databases through its ordinary established principles. However, copyright law has resolved such problems with addition of newer subject matters, recognition of newer test of originality, etc. Similarly, many international legal instruments like amendment to *Berne Convention, 1886*, *WIPO Tunis Model Law on Copyright, 1976*, *UNDRIP, 2007*, *UN Declaration on Human Rights, 1948*, have laid down enough guiding principles for Indian legislators to modify and amend the copyright law in India for the protection of traditional cultural expressions of India.

The recommendations suggested hereby are two-fold which target India's international obligations as well as domestic responsibilities. In fulfillment of its international obligations:

1. India needs to execute its mandatory obligations under international legal instruments (like *Berne Convention*, *UNDRIP*, *ILO Convention 107*) in line with Article 51 (c) of the Constitution of India and amend the Copyright Act to protect TCEs in India.
2. India should try to achieve transborder cooperation in regards shared cultural heritage and TCEs through negotiations at the "*South Asian Association for Regional Cooperation*" (*SAARC*)-*WIPO* sub-regional forum and enter into bilateral or regional agreements ensuring the appropriate protection of shared cultural heritage and TCEs with its neighboring States.
3. India should embody the spirit of guiding principles as laid down in different international legal instruments like *Tunis Model Law*, *WIPO Draft Articles* which hold persuasive values and accordingly amend the provisions of Copyright Act, 1957.

The Parliament of India can legislate by interweaving the strategies of global and local as "*global entails homogenization and undifferentiated identity whereas the*

*local preserves heterogeneity and difference*".<sup>46</sup> The following recommendations can be referred by Indian legislators while drafting law relating to protection of traditional cultural expressions in India.

***A. Preparation of list of communities in India recognized as "traditional communities" for purpose of protection of their traditional cultural heritage.***

India has a diverse culture, and it is important to list those traditional communities which have continued their traditional cultural heritage inter-generationally. The primary goal of legislators should be to identify a list of traditional communities. Such a list should not be exhaustive but indicative and subject to timely revisitation/ updating. The list can be inspired by the officially recognized list of scheduled tribes as provided by the Constitution of India and also include certain other tribes and traditional communities who claim to have distinct culture, language, socio-legal structures and other traditions. They together can be granted recognition as "traditional communities" by a separate empowered committee at government level subject to due scrutiny. The status recognition of certain tribes as "traditional communities" other than scheduled tribes should solely be for protection as TCEs under the Indian Copyright Act.

***B. Formation of empowered committee for recognition of "traditional communities".***

There is an urgent necessity for formulation of a committee at government level which is empowered to determine among different communities in India that can qualify to be categorized as "traditional communities of India". The committee must have inter-ministerial representatives of joint secretary level and such committee should be empowered to decide and finalize on List of communities recognized as "traditional communities" for purpose of protection of their TCEs. The committee needs to have representative members from following Ministries of Government of India to carry out its role properly:

1. Ministry of Tribal Affairs, Government of India
2. Ministry of Commerce and Industry, Government of India.

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<sup>46</sup>Christian Hubert Studio, <https://www.christianhubert.com/writing/localglobal>.

3. Ministry of Culture, Government of India

***C. Allocation of task to Zonal Cultural Centers in each state of India to segregate TCEs into category of Sacred, Secret, closely held, Widely Used/ Public Domain***

The Ministry of Culture, Government of India has autonomous bodies called zonal cultural centers established under its wing to promote and foster cultural development across India<sup>47</sup>. There are currently 7 zonal cultural centers in India:

1. Eastern Zonal Cultural Centre, Kolkata
2. North Central Zone Cultural Centre, Prayagraj
3. Northeast Zone Cultural Centre, Dimapur
4. North Zone Cultural Centre, Patiala
5. South Central Zone Cultural Centre, Nagpur
6. South Zone Cultural Centre, Thanjavur
7. West Zone Cultural Centre, Udaipur

These zonal cultural centers should be allocated the task of segregation of TCEs (when applied by community based on evidence) into the categories of sacred, secret, closely held, widely held/ public domain. It is important that such task is carried out by the zonal cultural centers at regional levels as some tribes and communities in India are spread across various locations and their traditional lifestyle and practices needs to be seen accordingly.

***D. Formation of a representative association for each “traditional communities”.***

For protection of TCEs through copyright law in India, every “traditional community” needs to file their claims for copyright protection over their TCEs through an association. This association will be recognized as “registered proprietor” of TCEs by the office of empowered inter-ministerial committee. Such “Registered Proprietor” will act as a representative of the aforementioned “traditional tribal community” based on following essentials:

- The association should comprise of the representatives from “traditional community” (the selection may be according to customary laws) and furnish proof of the same.

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<sup>47</sup>Zonal Cultural Centers, MINISTRY OF CULTURE, <https://indiaculture.gov.in/about-us/autonomus-bodies/zonal-cultural-centers>.

- A statement as to how the association is representing the interest of the “traditional community” (similar to role of registered proprietor of GI in India) and not individual member’s interest.
- Such other particulars as may be prescribed.

***E. Addition of proposed sub-clauses Section 2 (zb) and (zc) defining “Traditional Communities” and “Traditional Cultural expressions” under the Copyright Act, 1957.***

The existing Section 2 does not have any provision defining or interpreting “Traditional Communities” and “Traditional Cultural expressions” and therefore, it needs to be inserted by way of an amendment.

***F. Addition of sub-clause Section 13 (1A) on TCEs by way of amendment as subject matter.***

TCEs needs to be included as a subject matter under the Copyright Act in India. Copyright should subsist in TCEs as a separate class of work i.e., to say even though such work might overlap with existing subject matters, the prerequisite of originality and fixation should not be considered as an essential criterion for protection. This ensures the evolving nature of TCEs do not become a hindrance to its protectability under Copyright Act in India.

***G. Addition of new proviso under Section 17 of the Copyright Act recognizing registered proprietor as first owner of the copyrights over TCEs belonging to a “traditional tribal community”.***

The existing provision Section 17 recognizes author as first owner subject to multiple provisos. The proposed new proviso Section 17 (f) should recognize registered proprietor as the first owner of the copyrights over TCEs belonging to a “traditional community”.

***H. Addition of Section 14A by way of amendment of Copyright Act to recognize tiered approach towards economic rights for different categories of TCEs.***

The new Section 14A should incorporate the rules relating to economic rights of TCEs. Section 14A should include:

- Commercialization through copyright over TCEs should not be done by registered proprietor but by “authorized users” as recognized by such association from time to time. But any unauthorized/inappropriate use is actionable by registered representative association as “intrusion upon

*seclusion*” meaning any commercial exploitation or other use of such copyright without and beyond permission would amount to evasion of privacy on seclusion or solitude of the tribal community itself and therefore actionable.

- TCEs recognized as “Sacred and/or secret” should be protected as non-intrusive and non-commercial. Thus, registered proprietor should not give any permission for commercialization to members of the community or third party. Such TCEs should be inalienable even post unauthorized disclosure, transfer, reproduction, fixation, communication to public, performance, sale, commercial rental, translation, or any other form of adaption by any member of concerned community or third party as long as the subject is distinctive of that community and continues to hold traditional/cultural/ religious/ historical significance to the community.
- For TCEs recognized as “closely held”, registered proprietor may give permission only to authorized user to exercise economic rights, but such usage should be respectful of customary practices. Registered proprietor may recognize ‘*traditional cultural rights*’ for usage of the TCEs in non-customary ways (irrespective whether commercial or non-commercial use) by members only of the community subject to prior informed consent and benefit sharing as determined by Registered proprietor.
- For TCEs certified as “widely used or has entered public domain”, no copyright exists. However, for commercial usage of such TCEs minimal licensing fee is to collected from non-members of such community and deposited in a welfare fund as established by Government of India for collective benefit of such community.
- Section 14A should have an overriding effect on Section 14 in case of any conflict over economic rights relating to TCEs.

**I. *Addition of Section 22A under Chapter V (Term of Copyright) of the Copyright Act dealing with Term of Copyright over TCEs.***

The term of copyright over sacred or secret TCEs should be perpetual, other copyright for “closely held” TCEs to be renewable if it is distinctive of community and its derivatives (non-customary usage) to be subject to normal term of copyright. Therefore, a new provision Section 22A should be included by way of amendments under Chapter V.

***J. Addition of Section 57 (1A) to recognize special rights of registered proprietor and authorized users over their TCEs.***

For the purpose of author's special rights under Section 57, if authorized user of "traditional community" is known, he may be attributed with special rights as an author of the work subject to customary practices. When a work is either unpublished or is published by an anonymous or pseudonymous author, the registered proprietor should be considered as the author of work.

The registered proprietor may exercise the right to integrity as provided under the present Section 57(1)(b) even against community members.

***K. Amendment to the definition of performer under existing provision Section 2 (qq).***

Addition of term "performer of traditional cultural expressions" within the existing provision Section 2 (qq) as clarification to the inclusive provision

***L. Addition of proviso to Section 38A (2) stating "written agreement" between traditional art performer and third parties shall be subject to approval of registered proprietor.***

Present Section 38A (2) provides that a performer may by written agreement consent to incorporation of his performance in a cinematographic film and shall not object to the enjoyment by the producer of film of performer's right in same film. It is proposed that agreement between traditional art performers and third parties under this provision should be subjected to prior approval of registered proprietor. This approval shall protect against misuse and misappropriation of TCEs.

***M. Addition of subclause defining infringing copy in relation to TCEs.***

Present Section 2 (m) states the meaning of what constitutes an infringing copy in relation to different subject matters under Section 14. Proposed sub-clause will add to such definition the scope of infringing copy in relation to TCEs.

***N. Addition of a sub-clause under Section 52 of the Copyright Act which includes acts not constituting infringement of copyright over TCEs.***

The existing Section 52 provides a list of acts not constituting copyright infringement. The proposed sub-clause (zd) to Section 52 (1) should recognize fair dealing with works relating to TCEs subject to customary rules of "traditional tribal communities" for:

- Private or personal use including research and

- Reporting of current events and current affairs.

**Table of Draft Provisions for protection of TCEs within the Copyright Act, 1957.**

Basis of Amendment	The Copyright Act, 1957.	Suggested Amendments
Defining Traditional Communities	No provision	<b>Insertion of new clause (zb) under Section 2 Interpretation.</b> - <i>Traditional Communities means any community recognized by the competent authority as “traditional communities” for purpose of protection of their traditional cultural heritage.</i>
Defining Traditional Cultural Expressions	No provision	<b>Insertion of new clause (zc) under Section 2 Interpretation.</b> - <i>Traditional Cultural Expressions includes music, dance, art, designs, names, signs and symbols, performances, ceremonies, architectural forms, handicrafts and narratives, or other artistic or cultural expressions.</i>
Subject Matter of Copyright	<b>“13. Works in which copyright subsists. —</b> (1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following	<b>Insertion of new clause (1A) in Section 13.</b> <i>(1A) Copyright shall subsists in Traditional Cultural Expressions in relation to any works specified under sub-section (1)</i>

	<p>classes of works, that is to say, —</p> <p>(a) original literary, dramatic, musical and artistic works;</p> <p>(b) cinematograph films;</p> <p>And</p> <p>(c) sound recording.”</p>	
Economic Rights	<p><b>“14. Meaning of Copyright.</b> — For the purposes of this Act, “copyright” means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely: — [.....]”</p>	<p><b>Insertion of new provision Section 14A.</b> <i>Notwithstanding anything contained in Section 14, Copyright in the case of traditional cultural expressions, means exclusive right to authorize the following acts –</i></p> <p><i>i. to do any of the acts specified in clause (a) to (e) of Section 14 (1) by authorized user in respectful way in regards “closely held” TCEs;</i></p> <p><i>ii. to use sacred and/or secret TCEs as non-intrusive;</i></p> <p><i>iii. to do any of the acts specified in clause (a) to (e) of Section 14 (1) by members of community in non-customary way subject to prior informed consent and benefit sharing; and</i></p> <p><i>iv. to collect minimal licensing fee in regards doing any of the acts specified in clause (a) to (e) of Section 14 (1) by non-member of</i></p>

		<i>community for “widely used or has entered public domain”.</i>
Authorship/Ownership	<p><b>“Section 2(d) “author” means,</b> —</p> <p>(i) in relation to a literary or dramatic work, the author of the work;</p> <p>(ii) in relation to a musical work, the composer;</p> <p>(iii) in relation to an artistic work other than a photograph, the artist;</p> <p>(iv) in relation to a photograph, the person taking the photograph;</p> <p>(v) in relation to a cinematograph film or sound recording, the producer; and</p> <p>(vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes</p>	<p><b>Insertion of new sub-clause (vii) to clause (d) of Section 2 “author” means, —</b> <i>(vii) in relation to any traditional cultural expressions, the authorized users.</i></p> <p><b>Insertion of clause (f) under Section 17 First owner of copyright.</b> — Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein: Provided that – <i>(f) in the case of a work of traditional cultural expressions, in the absence of any agreement to</i></p>

	<p>the work to be created.</p> <p><b>Section 17 First owner of copyright.</b> — Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein: Provided that— .....”</p>	<p><i>the contrary, the registered proprietor shall be the first owner of the copyright therein.</i></p>
Term of Copyright	<p><b>Chapter V Term of Copyright.</b></p>	<p><b>Insertion of new provision Section 22A.</b></p> <p><i>In case of traditional cultural expressions, the copyright shall subsist until a period of 60 years subject to renewal for additional terms as long as such traditional cultural expressions is distinctive of the community.</i></p> <p><i>Provided that it shall be perpetual if it continues to be classified as sacred and/or secret.</i></p> <p><i>Notwithstanding anything contained in this section, the term of the derivative works authorized by the registered proprietor shall be as provided under Chapter V.</i></p>
Moral Rights	<p><b>“Section 57. Author’s special rights. — (1) Independently of</b></p>	<p><b>Insertion of new clause (1A) under Section 57 Author’s special rights. —</b></p>

	<p>the author’s copyright and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right—                  (a) to claim authorship of the work; and                  (b) to restrain or claim damages in respect of any distortion, mutilation, modification or other act in relation to the said work if such distortion, mutilation, modification or other act would be prejudicial to his honour or reputation.”</p>	<p><i>(1A) The authorized user of “traditional community” when known, shall have the right under sub clause (a) of sub- section (1) of Section 57 to claim authorship of the traditional cultural expression, subject to customary practices.                  Provided that in case of a published/unpublished work by anonymous or a pseudonymous author, the registered proprietor shall have the right under sub clause (a) of sub- section (1) of Section 57 to claim authorship of the traditional cultural expression, subject to customary practices.                  Provided that the registered proprietor may exercise the rights under sub clause (b) of sub- section (1) of Section 57, also against community members.</i></p>
<p>Performers Rights</p>	<p><b>“Section 2(qq)</b>                  “performer” includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a</p>	<p><b>Insertion of new term “Traditional cultural expressions” within Section 2 (qq)</b>                  “performer” includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer,</p>

	<p>person delivering a lecture or any other person who makes a performance.”</p> <p><b>“Section 38A. Exclusive right of performers. —</b>                  (1) Without prejudice to the rights conferred on authors, the performer’s right which is an exclusive right subject to the provisions of this Act to do or authorise for doing any of the following acts in respect of the performance or any substantial part thereof, namely: —                  .....”</p>	<p>performer of traditional cultural expressions, a person delivering a lecture, or any other person who makes a performance.</p> <p><b>Insertion of new clause under Section 38A. Exclusive right of performers. —</b><i>(2) An agreement between traditional art performers and third parties be subjected to prior approval of registered proprietor. against misuse and misappropriation of TCEs.</i></p>
<p>Infringing copy</p>	<p><b>“Section 2 (m) “Infringing copy” means—</b>                  (i) in relation to a literary, dramatic, musical or artistic work, a</p>	<p><b>Insertion of new sub-clause (v) under Section 2 (m) Infringing copy-</b>  <i>(v) in relation to traditional cultural expressions any reproduction or recording of work embodying it or embodying its</i></p>

	reproduction thereof otherwise than in the form of a cinematographic film; [..... ] if such reproduction, copy or sound recording is made or imported in contravention of the provisions of this Act;”	<i>performance or broadcast of such works where rights subsist under the provision of this Act.</i>
Acts not amounting to infringement	<b>“52. Certain acts not to be infringement of copyright. — (1)</b> The following acts shall not constitute an infringement of copyright, namely, — [.....]”	<b>Insertion of a new sub-clause (zd) under clause (1) of Section 52 Certain acts not to be infringement of copyright. —</b> <i>(zd) a fair dealing with work relating to traditional cultural expressions for the purpose of:</i> <i>i. private or personal use including research; and</i> <i>ii. Reporting of current events and current affairs.</i>

## VII. Conclusion

The famous author Mark Twain once rightly said: “India is the cradle of the human race, the birthplace of human speech, the mother of history, the grandmother of legend and the great grandmother of tradition”. The Indian Parliament should step up their game and legislate the long overdue domestic law relating to protection of traditional cultural expressions and heritage. Revamping the Copyright Act, 1957 on proposed points is recommended for India to fulfil its domestic as well as international obligation.