Trends in Intellectual Property Research

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Collaborative Works and The Protection of Their Authors: A Tale from Bollywood

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Abstract: Thoughts of the Mumbai city of India, inevitably take one's mind to the glitzy world of Bollywood, and thoughts of stars walking down the red carpet at the opening night of a new blockbuster. Bollywood is truly at the epicenter of the culture of the Mumbai. It also plays a major role in the economy of the city. The film business is deeply collaborative, and a multitude of artists contribute their artistic endeavors towards the film. This research examines the legal framework in India for the protection of the rights and interests of these artists. The article thoroughly examines India's copyright laws, special welfare legislations aimed at protecting these artists and opinion of India's Courts and Tribunals for these provisions. Finally, areas and matters of concern that require the urgent attention of the legislature and Courts in the country have been highlighted.

Keywords: collaborative works; copyright; authors; Bollywood; film industry

Citation: Mikhail Behl. 2024. Collaborative Works and The Protection of Their Authors: A Tale from Bollywood. *Trends in Intellectual Property Research* 2(2), 23-29.
https://doi.org/10.69971/tipr.2.2.2024.33

1. Introduction

If the readers visualize an image that captured the heart of the city of Mumbai, they could not possibly be faulted if the glitz and glamour of Bollywood is one of the first visual that popped up their head and rightfully so! Film and television are heavily interlaced within the social and cultural fabric of this city. Bollywood is an economic juggernaut providing employment and a means of living to thousands in Mumbai (Metaxas et al. 2016). Mumbai being the city of residence of the author and this being the author's first contribution to this journal, what could be a better beginning than an article that covers both worlds, i.e., the arts and law.

The film and television businesses are inherently a collaborative drawing as they have contributions from a variety of artists ranging from writers, dancers, stunt doubles, sound and light technicians, costume designers, stage and prop designers, make-up artists, visual effect artists, musicians, actors and directors (Moullier 2022). Each of these artists contribute a part of their personality as embodied in their work to a film or series. The product, i.e., the film or series is thus 'a work of joint authorship'.[1] The indelible mark and contribution of each of these artists is of course also why each of these artistic groups merit a separate category in any film and television award show.

This article explores India's prevailing legal framework in so far as it concerns the legal interests of this unique group of artists. Beginning with an exposition of the historical justifications behind the protection of the rights of the artist, the article weighs in on the question does the existing legal system in India do enough to protect these artists?

2. Brief Historical Overview of Moral Rights

Le droit moral de l'autheur (the moral rights of an author), is a legal idea that developed through judicial pronouncements of the Courts in France (Liemer 2011). This legal rule allowed artists to protect the expression of their personality as expressed by them through their work. Almost simultaneously in Germany, the philosophical teachings of *Gierke and Kohler* spoke of the concept of *Urheberpersonlichkeitsrecht* or how the personality of the author stood transferred into their art.[2] The idea as developed by the French Courts imagined these moral rights as being separate or distinct from the economic rights associated with the work and therefore these moral rights attached in perpetuity with the work and were inalienable. In Germany, these rights were seen as

1 Section 2(z) of the Copyright Act, 1957 defines a work of joint authorship as "a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors."

2 W.R. Cornish, AuthoSSrs in Law 58 Mod. L. Rev 1 (January 1995).

two branches of the same tree and therefore it was believed that these rights came to an end simultaneously with the term of the copyright.

In England, the Stationers' Company during the Tudor and Stuart dynasties had a virtual monopoly over all rights of publication given their connections with the State and Church. This was because the copies of any publication could only be done through a license procured from them. But with the Glorious Revolution and the change in British monarchy, these monopolies weakened and threatened by provincial copiers who lobbied strongly against the Stationers'. This required a major rethink on copyrights in England. This systemic change took root through the Statute of Anne, 1710 where for the first time ever the laws of England recognized that the initial title of protection to any work of art must vest in the '*author*' itself (khong 2006). If a Stationer or any publisher for that matter desired this artwork for themselves, they would have to take an assignment from the author.[3] The reimagining of copyright in this manner also became a justification for a longer term of protection.

To standardise the nature of protection afforded through copyright law, nations of the world entered into an international agreement known as the Berne Convention for the protection of literary and artistic works establishing a minimum standard of copyright protection across signatory countries (Okediji 2006). The initial convention was signed by 10 countries and today approximately 180 member countries and city states are party to the convention and its amendments, thereby agreeing to offer the minimum level of protection agreed by its terms. Article 6bis of the convention particularly addresses authorship claim, author's right after death and redressal mechanism.

3.The Legal Framework for Protecting the Artist

3.1 The Copyright Act, 1957

India's application to the Berne Convention was first made pre-independence and therefore was made on its behalf by the United Kingdom in the year 1886. To give effect to the provisions of this convention, the British enacted the Copyright Act, 1911 amended 1914.[4] Berne Convention has been amended several times and depending on India's political history, these amendments have been ratified either by Great Britian on her behalf or by India respectively. The most recent amendment to the Convention being the Paris Act, 1971 which India ratified in the year 1984.[5]

In the year 1957, the eighth year of the republic of India, India enacted the Copyright Act, 1957.[6] The statement of objects and reasons of the Act explained the need for an overhaul of the laws on copyright in India for several reasons ranging from "*a growing public consciousness of the rights of authors*" and a need for adequate amendments to provisions to bring Indian law in compliance with its international obligations, *i.e.,* to bring it in line with the Berne Convention. This Copyright Act, 1957 was significantly different from the law in the United Kingdom in particular in so far as it legislatively recognized that "*a cinematograph film will have a separate copyright apart from its various components, namely, story, music, etc.*" The Copyright Act has been amended six times. When it was amended in the year 2012 one of the reasons stated was "*to give independent rights to authors of literary and musical works in cinematographic films*" and "*to ensure that authors of works, in particular authors of the songs included in cinematograph film or sound recordings, receive royalty for the commercial exploitation of such works*."

For current study, important provisions are the definition of an author, works in which copyright subsists, meaning copyright, first owner of copyright, mode of assignment and author's special rights mentioned in sections 2(d), 13, 14, 17, 19 and 57 respectively that are the framework of the economic and moral rights of an author. Courts in India have interpreted these provisions wisely. In this regard, the judgment of the Hon'ble Supreme Court of India in the case of *Indian Performing Right Society Ltd. v. Eastern India Motion Pictures Association & Ors* is especially important.[7] In this landmark ruling, the Hon'ble Supreme Court of India had to determine a question affecting the economic rights of a particular category of contributing artists engaged by the film industry namely '*musicians and musical composers'*. The question before the Hon'ble Supreme Court of India was '*whether a musician or musical composer who has composed the music for a film, which music has been incorporated into its soundtrack of that film retains any copyright therein or whether the producer alone is by virtue of the aforementioned provisions of the Copyright Act now the sole owner of the copyright thereto*.' After referring to the relevant provisions of the Act the *ratio decendi* of the Hon'ble Supreme Court found that no copyright in the music subsisted in the music composer of the soundtrack of a film and their contributions were to be regarded as commissioned works, making the film producer the first owner of these contributory works. Although this judgment was issued prior to the introduction of the 2012 amendments to the Copyright Act; its observations particularly those contained in paragraph 17 of its judgment namely: *as to how the producer of a cinematograph film may defeat the economic rights of a lyricist, musician or composer by including their underlying work into a film* are true even today. The 2012 amendments to the Copyright Act, 1957 meant to ensure authors got their fair share of the pie when their underlying works were incorporated into film. But the poor choice of wording of Section 19 of the Copyright Act, 1957 perhaps failed to achieve that stated objective.

To some extent this objective is achieved when it comes to other works, *i.e.,* with respect to literary, dramatic or other artistic works, because there by virtue of Section 19(9) it would be necessary to obtain an assignment or otherwise pay royalty and consideration if it was desired to utilize those works outside of the communication of the film. One may legitimately ask however, as to how the 2012 amendments to the Copyright Act achieved its stated objective of ensuring '*that authors of works, in particular*

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3 Ibid.

4 Available online: https://www.ipindia.gov.in/writereaddata/Portal/Images/pdf/The_Copyright_Act__1914.pdf (accessed on 23 March 2025)

5 Available online: https://www.wipo.int/wipolex/en/treaties/textdetails/12800 (accessed on 23 March 2025)

6 Available online: https://www.indiacode.nic.in/handle/123456789/1367 (accessed on 23 March 2025)

7 (1977) 2 SCC 820.

authors of the songs included in cinematograph film or sound recordings, receive royalty for the commercial exploitation of such works[8]' in view of the wordings of Section 19(10) of the Copyright Act, 1957. The table below would demonstrate this problem:

Statement of Objects and Reasons	Section 19 (10)
(x) ensure that authors of works, in particular, authors of songs included in cinematograph film or sound recordings, receive royalty for the commercial exploitation of such works.	10. No assignment of the copyright in any work to make a sound recording which does not form part of any cinematograph film shall affect the right of the author of the work to claim an equal share of royalties and consideration payable for the utilization of such work in any form.

Surely these interests could only have been protected if section 19(10) read: *No assignment of the copyright in any work to make a sound recording which forms part of any cinematograph film shall affect the right of the author of the work to claim an equal share of royalties and consideration for the utilization of such work in any other form.* To the author, this selection of words would ensure that the communication of the music for any purpose other than the communication of the film would be an additional earning opportunity for the underlying artist entitling them to a claim for an equal share in the royalties earned.

The plight of the author of an underlying work was further exposed through the pronouncement of the Hon'ble Supreme Court in the case of *International Confederation of Societies of Authors and Composers (ICSAC) v. Aditya Pandey & Ors.*[9] where the Hon'ble Supreme Court was again called upon to decide upon the consequences of the inclusion of a work into a cinematograph film. Did this inclusion result in the consequential disentitlement to any royalty or consideration for the original musical artist thereafter? The question arose in the context where a party desirous of obtaining a license to play said music at a live event was being forced by two groups namely the performers right society representing the artist and the producer to obtain a license from both. In its judgment, the Hon'ble Supreme Court mentioned that the defendant was the first owner of the copyright in the soundtrack, the Court also noted that the law was amended after the suit was filed and agreement did not contain any restrictions.

This text seems to suggest that the 2012 amendment would be of no avail to an artist whose works have been incorporated into a cinematographic film. Thus, one may conclude that it is the law in India that once a lyrical, dramatic or artistic work is embodied into a film/television, the producer of the cinematograph film becomes by operation of law and on the completion of the film the deemed '*first owner*' of the rights associated with the ownership of the film '*including these underlying works*' and the original artists/original authors retain only the '*remaining copyrights*' associated with being the 'author' or 'first owner' of these underlying works such that they may continue to perform these works in public for profit *etc*. The economic prejudice caused to the artists therefore is quite apparent. [10]

In addition to the economic rights of an author contributing works to a cinematograph film the Copyright Act, 1957 expressly recognizes the moral rights of these artistic collaborators and therefore whilst recognizing that the production house/producer/s of the 'film' or 'series' would ordinarily be the '*first owners*' of a cinematographic film or series this matter would not detract from the authorship rights of the authors of the several works incorporated within the film.[11] In India, the right retained by authors includes the right to assert and claim authorship otherwise described as the right to claim/assert paternity to or over a work. Additionally, authors have the right to restrain and or claim damages in respect of any distortion, mutilation or other act in relation to a work which would be prejudicial to the honour or reputation of the author. [12]

If the reader recalls from brief historical recap above in particular with respect to the history behind the recognition of these moral rights, they would learn that these '*rights*' were only conceded because the concession of these rights a) became a way of justifying the longer term of protection for copyrights being granted to the stationers' company and of course b) because in fact they benefit the producers just as much if not more than they do their authors. The biggest gain derived by a production house from working with a particular author is the gain in respectability for their product on account of the collaboration.[13] A few illustrations would help bring this point home: a) A painting by a renowned artist would realise a significantly higher value for the collector/patron precisely because in addition to its inherent artistic merits it also bears at its foot the authenticated/proven/unmistaken signature of the artist establishing its provenance, b) A film maker contracts the biggest hit maker singer/performer of the day to write and/or perform a song for their latest action film. This chart-topping song is strategically released around the launch date of the movie to function as a genius marketing campaign for the film.

It is precisely for these reasons that the provisions of the Copyright Act, 1957 and the *proviso* to Section 17 recognizes the survival of the original authors economic rights and that the provisions of Section 57 of the Copyright Act, 1957 recognize that the authors moral rights are inalienable. Given the express statutory recognition of an author's moral rights in their respective contributions one would believe Courts in India and in the Mumbai city that is the home of Bollywood would willingly step up in the defense of these artists but alas this has not necessarily been the case.

For instance, in a recent decision of the Bombay High Court in the case between *Trishul Media Entertainment v. Retrophiles Private Limited & Ors.*[14] the Bombay High Court refused to acknowledge the paternity rights claimed by the visual effects artists that

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8 Statement of Objects and Reasons clause 3(x) of the 2012 Amendment Act.

9 (2017) 11 SCC 437.

10 (1977) 2 SCC 820.

11 Section 17 of the Copyright Act, 1957: "Provided that in case of any work incorporated in a cinematographic work, nothing contained in clauses (b) and (c) shall affect the right of the author in the work referred to in clause (a) of sub-section (1) of Section 13."

12 Section 57 of the Copyright Act, 1957.

13 W.R. Cornish, Authors in Law 58 Mod. L. Rev. 1 (January 1995)

14 2023 SCC Online Bom 1824

had worked on the production of the film. The Plaintiff, *Trishul*, initiated these proceedings to protect its copyright in the visual effect works it had contributed for the movie in question. The main reliefs being for a permanent injunction and damages. In this case, the agreement that formed the basis of the contractual relations between the parties expressly recognised that both the Plaintiff as well as the personnel of the Plaintiff who were working on the film would be given on-screen credits. The Plaintiff at the interlocutory stage applied for the enforcement of this contractual provision. At the first hearing in these proceedings, the Defendant made a statement before the Bombay High Court that it had given the Plaintiff character asset credits in the film. That statement as it turned out was itself a work of art and the credits only mentioned that the Plaintiff contributed to the visual effects failing to mention the names of the individuals who worked on the project for and on behalf of the Plaintiff. This precipitated the filing of an application whereby the Plaintiff sought to represent the over 130 artists who had worked on developing the films visual effects.

Under the Code of Civil Procedure, 1908. *i.e.,* the procedural law that governs the conduct of civil proceedings in India a party may apply to a Court of law for leave to represent others who may have an interest in the proceedings at hand. Once this permission is obtained these proceedings become "representative proceedings". If leave is granted, the person to whom leave is granted must invite objections from this larger body of people to the Plaintiff's continued functioning as their legal representative. Based on responses received the civil court may reconsider its decision to have said person act as representative. The purpose behind these types of proceedings is to ensure access to justice and of course to avoid multiplicity of proceedings. Courts strictly monitor the conduct of these proceedings, and these proceedings cannot be compromised or withdrawn without the leave of the Court. Thus, we may appreciate that essentially, by this application the Plaintiff sought to ensure that the artistic contributions of these over 130 artists were duly acknowledged. These artists had worked as employees of the Plaintiff on the project and an apparent commonality of interest presented itself. The application of course agitated a right expressly recognized both by the provisions of the Visual Effects Agreement (the subject matter agreement) as well as by Section 57 of the Copyright Act, 1957 which expressly recognizes the right to be recognized as an author of a work and the inalienable nature of these rights. The opposing Defendants contended that the Plaintiff was seeking to change the nature of the Suit from one originally agitating a contractual right into one that also agitated the authorship rights of the employees of the Plaintiff. Arguments in opposition also sought to articulate some divergence in the claims that could be agitated in the proceedings consequently. By a rather long yet briefly reasoned judgment, the Court rejected the impleadment application finding only that '*the Plaintiff being a company could not have any claims to authorship*' and therefore there was no commonality between the interests of the Plaintiff and its employees. The reasoning is flawed to say the least. The Court ignored or failed to appreciate that the Plaintiff had a right to be recognized as the author by virtue of a condition in the contract between the parties and the employees had this right through the same contract as well as through the provisions of Copyright Act, 1957. These persons were of course undisputedly the employees of the Plaintiff and there was therefore an apparent commonality of interests even for this reason.

In its analysis, the Court returned no finding as to why the Plaintiff couldn't or rather was not the fit or appropriate person / entity to represent its own employees. Sub-section (2) of Section 57 of the Copyright Act, 1957 states '*the rights conferred upon an author of a work under sub-section (1) may be exercised by the legal representative of the author'.* Article 6*bis (3)* of the Berne Convention states that '*the means of redress for safeguarding the rights granted by this Article shall be governed by the legislation of the country where protection is claimed.'* These provisions therefore clearly recognize that authors may need to have someone represent their interests. Cine workers are not all stars and most if not many of these artists barely make ends meet. They are most definitely persons who can benefit from such representation. The Plaintiff's application was one to seek leave to represent these artists in accordance with the law in India and therefore met the legal requirements under Section 57.

It may even be said in criticism of this judgment, that the Court could not have entered into any *prima facie* evaluation of the merits of the case without having someone represent the interests of these artists, for these artists would most certainly be in a position to individually and collectively assist the Court in any conclusions in that regard being the originators of the work in question. Moreover, the Court perhaps lost sight of the fact that in the Indian film industry and given the discussion below namely on the failing of the Cine Workers Act, the lack of any collectively bargained understanding on being credited, these artists would by necessity need to be represented by someone with means and occasion. These film credits are in addition the only real acknowledgment of these artists' contribution and could really help establish a career as a special effects artist.[15] The only take away of course from this judgment is that the Court believed its docket needed to be burdened by the filing of more than 130 separate cases asserting paternity rights to and over the same work.

3.1.1 The Cine-Workers Act, 1981

The Cine Workers and Cinema Theatre (Regulation of Employment) Act, 1981 (hereinafter 'the Cine Workers Act') was a statute enacted to safeguard the interests of those persons who are employed directly or indirectly in or in connection with the production of a feature film to work as an artiste (including actor, musician or dancer) to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise.16 Given the protective intent behind its provisions, the Act is most certainly a beneficial or welfare legislation aimed at this community of artists. As such the legislation in this regard comes as a package of six separate laws namely: 1) the Cine Workers Act, 1981 and Cine Workers Rules, 1984, 2) the Cine Workers Cess Act, 1981 and Cine Workers Cess Rules 1984 and 3) the Cine Workers Welfare Fund Act, 1981 and Cine Workers Welfare Fund Rules, 1984.

The protective and coercive provisions of this Act would however not apply to any cine worker 'artiste' if they were to earn a monthly remuneration of Rs. 1,600/- (Rupees One Thousand Six Hundred Only) or a total lump sum consideration of Rs. 15,000/- (Rupees Fifteen Thousand Only) as any artiste earning more than these amounts did not in the opinion of the legislature answer to the definition of a 'cine worker'. While these amounts may have been significant sums back in 1981 it is as on the date of writing this article almost equivalent to India's definition of the poverty line. The annual income of such an individual would be so low that at the time of writing this article the government exempts such persons from the payment of any income tax. Consequentially, none

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15 Patrick Masiykurima, The Trouble with Moral Rights 68 Mod. L. Rev 411 (May 2005).

16 Section 2(c) of the Cine Workers Act, 1981.

of the regulations stipulated by this Act including the requirement for: a) a written agreement (meant to be standardized and pre-approved), b) provident fund contributions, c) conciliation or access to the Cine Workers Tribunals, d) statutory penalties or imprisonment can in fact be said to be of any relevance today.

Therefore, the cine worker has no standardized agreement approved by a mechanism provided by law, has no assurance that the consideration being offered to them is one that has passed a level of legal scrutiny. Given that the parties involved come from such divergent economic positions and of course since one of the contracting parties has so much power and influence in the industry the opportunity for exploitation are manifest. This situation has arisen through sheer apathy and neglect on the part of the legislature. All that is really required to be done is to ensure that the provisions of this Act are amended so that its protection is afforded to all artists irrespective of how much or little they earn.

4. Collective Bargaining & Unionization

4.1 Collective Bargaining in India

Left in the lurch, these artists banded together through trade unions in the hope that collective bargaining would help them realize a better future. These unions would bargain on behalf of their members a template for standardized agreement which would stipulate an agreed minimum wage and allowances, hours of work, on screen credits and other benefits. In India however these unions have not exactly been welcomed with open arms. Rather ingeniously, producers launched multiple challenges to the activities of these unions under the provisions of the Competition Act, 2002. The Competition Act, 2002 was introduced in India to ensure fair competition by prohibiting trade practices which cause appreciable adverse effects on competition in markets within India. Its various provisions were brought into effect at various stages, importantly for the purposes of our examination in the year 2009 the provisions of Section 3 of the Act were brought into effect. It provided for the prohibition of certain agreements.

A leadings case dealing with a challenge between a producer and a union of cine workers was the case between *Vipul A. Shah and the All-India Film Employee Confederation and Ors.*[17] In this case the producer, Vipul Shah challenged a collectively bargained agreement being an MOU dated 1st October 2010. This MOU was executed between several trade unions representing the various categories of artists engaged in films on the one hand and an association of film producers on the other. The MOU required production houses to enter into agreements with members of the union on pre agreed terms including an understanding on hours of work, wages *etc*. They also required production houses to only employ union artists. The MOU also required a percentage of female and local artists to be hired mandatorily. The producer challenged this arrangement before the competition commission *inter alia* on the ground that it was anti-competitive in as much as it restricted the right of production houses to hire 'non-union artists. The challenge also urged that in so far as wages were fixed by agreement, they violated the price fixation prohibitions of the Competition Act. One of the principal points of focus became the provisions in the MOU which stipulated a vigilance committee which was to supervise all production activity so as to ensure that the provisions of the MOU were being duly honored.

The Competition Commission agreed with the producer that the provisions that restricted the hiring of non-union artists were anti-competitive, the commission observed:

With respect to the provisions concerning the vigilance committee, the Commission found that the mechanism and operation of this committee manipulated the producers' hiring process for their films/television programs and made free and fair competition in the market impossible. The Commission however found that the provisions that ensured a standard wage and guaranteed an assured increase in wages at fixed periods were not violative of the price fixation prohibitions of the Competition Act. As these provisions in the opinion of the Commission were legitimate trade union activities and the wages were agreed in consultation with the producers.

While the operative part of this decision struck down those provisions of the MOU which in its opinion restricted competition by limiting the hiring options of the producers to just members of the various unions. The author would like the reader to assess for themselves as to whether this was the only conclusion that could have been arrived at with respect to these provisions. Is it not a maxim in law that *'Ut res magis valeat quam pereat', '*that it is better that the thing may have effect/live rather than be declared dead or void.' The author suggests that an alternate or likely construction of these terms would have led to a conclusion that these provisions did not seek to impose a complete embargo or prohibition on hiring non-members but rather stipulated for '*a right of first offer - consideration*'. In the opinion of the author a combined reading of the terms of the MOU only asked the producer to consider whether they could employ a union member before approaching a non-union member.

The reader is also requested to note that there was in fact no positive evidence placed before the Commission of any instance where the vigilance committee *mala fide* refused a non-member artist an NOC (No Objection Certificate) and thereby occasioned any prejudice to either that non-member artist or the producer. The case as it were proceeded on the presumptive sequitur that follows the conclusion that the Commission arrived at. Perhaps in the facts of this case, where the restrictions were not absolute it would have been appropriate to have actual evidence of the oppressive functioning of the vigilance committee before assuming that such things were necessarily to be inferred.

Unfortunately, this binary approach to the interpretation of such clauses was also followed in the case of *Reliance Big Entertainment Ltd. v. Karnataka Film Chamber of Commerce*[18] where the Competition Commission struck down another collectively bargained agreement setting a standard on recruitment, wages, hours of work *etc* again for the same reasons *i.e.,* that it required producers to first look to union artists before approaching non-union artists.

The reader will also appreciate that the Competition Commission has apparently a different legal standard when it comes to provisions that govern relations between producers and artists as opposed to agreements *inter se* producers. In a case between *Ajay*

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17 2017 SCC Online CCI 53.

18 2012 SCC Online CCI 169.

Devgn Films and Yash Raj Films[19] the Competition Appellate Tribunal whilst agreeing with the Commission that an agreement between producers and film distributors to screen one producer's film with the other was a vertical tie-in agreement but resulted in no appreciable adverse effect on competition. In this case, the Commission invited evidence from all cinema owners single screen and multi-screen as to whether such an agreement adversely affected their business, and no one stepped forward to provide such evidence. The author suggests that if evidence of actual adverse impact on competition is appropriate to be found in such cases, it must also be asked for when it comes to the collectively bargained agreements entered between producers and trade unions of artists.

Because of these two judgments, there is a big dent on the collective bargaining powers of these unions, and one may even argue that with these two judgments, all efforts at collectively bargaining the economic interests of artists in film and television catastrophically failed.[20]

4.2 Collective Bargaining in the United States of Americal

The condition of artists in Mumbai when contrasted with the condition of artists in other countries is truly expositive. In the United States of America, collective bargained agreements between production houses and unions have been the norm since 1926 the year when a template for a Basic Studio Agreement between the production house and an artist was agreed. By 1941, the Screen Writers Guild negotiated a breakthrough agreement that granted writers guaranteed control on content, screen credits, as well as assurances on employment through written contracts and a minimum rate of compensation.

Film workers were 100% unionized in the United States by the 1940's. In the year 1960, a strike by the Writers Guild of America resulted in an understanding that allowed screen writers of theatrical motion pictures 1.2% of the royalty earned from license fees for television showings of films to which they had contributed. This agreement also created a pension fund, mandatory health insurance and set the standard for production house and artist relations in Hollywood. Newer agreements contemplate increased revenue sharing based on the success of a film or series on a streaming platform (OTT) and call for the ethical use of AI in the production of films.[21] In the United States, closed shop unions are completely lawful and hence production houses may only work with unionized artists.

Recently, the International Alliance of Theatrical Stage Employees (IATSE) and the Alliance of Motion Picture and Television Producers (AMPTP) arrived at a collectively negotiated agreement covering 50,000 crew members working as artists in various film production houses. The agreement covered pay increases, health and pension benefits and protection against Artificial Intelligence[22] ending a long writers' strike that crippled the industry and probably forced you into watching reruns of your favourite show or movie or alternatively convinced you to close your OTT subscription.

4.3 Collective Bargaining in the United Kingdom

In the United Kingdom, cine workers again have their collective economic and artistic rights protected through collectively bargained agreements between Unions like the Film Artistes Association (FAA), Broadcasting, Entertainment, Communication and Theatre Union (BECTU), EQUITY, Directors UK, Musician's Union, the Writers Guild of Great Britian representing the artists and the Producers Alliance for Cinema & Television (PACT) and the Production Guild of Great Britain (PGGB) representing the production houses. While producers are not required to only hire union workers, these collectively bargained agreements are an industry standard[23] and are therefore the starting point for all negotiations irrespective of whether or not the artist is a union member or not.

We have seen from our discussion above, that the legislature in India has through its sheer apathy towards the lot of artists allowed the provisions of a beneficial legislation namely the Cine Workers Act to become defunct and infructuous. We have noted the views of the Competition Commission of India on the legality of collectively bargained agreements, and we have noted that Courts in India do not believe employers may represent artists in a claim asserting paternity rights against the producer of a film. That Courts believe that these marginalized people with little to no bargaining power must bring independent actions, separately and individually establishing their role in the making of a film and incur the tremendous costs associated with litigating in the city of Mumbai. The tone deaf and sheer apathy to their plight and the lack of foresight to the reprisals that would undoubtedly follow once they made this decision is another matter altogether.

5. Recommendations

Above discussion does not present the legal framework for the protection of artists contributing to films in good light. In the seminal case between *Indian Performing Right Society Ltd. and Eastern Indian Motion Pictures Association & Ors.*[24] Justice Krishna Iyer, delivered a separate concurring judgment, which he very humbly described as a 'footnote'. This 'footnote' was a very nuanced and sophisticated critic of India's legal framework in this regard. The judge spoke eloquently about the existing laws failure to recognize and protect the economic interests of contributing artists in the film industry. Justice Krishna Iyer shared these views now almost 50 years ago. Despite this one finds no amendment to the definition of an author of a musical work which considers only the composer as the author of a musical work. The 2012 amendments to the Copyright Act far from bringing about any changes

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19 2013 Comp LR 903 (CompAT).

20 See: Understanding Trade Union Activities from the lens of Competition Law by Khushi Saraf and Vaibhav Tibrewal 2025 SCC Online Blog OpEd 25.

21 Available online: https://filmlocal.com/filmmaking/understanding-collective-bargaining-agreements/#:~:text=Collective%20bargaining%20agreements%20are%20the,actors%2C%20writers%2C%20and%20directors (accessed on 23 March 2025)

22 Available online: https://www.reuters.com/business/media-telecom/hollywood-workers-union-reaches-pay-ai-use-deal-with-top-studios-2024-06-26/#:~:text=June%2025%20(Reuters)%20%2D%20A,use%20of%20AI%20in%20filmmaking (accessed on 23 March 2025)

23 Available online: https://www.ep.com/blog/the-producers-guide-to-unions-in-the-UK-film-and-TV-industry/ (accessed on 23 March 2025)

24 (1977) 2 SCC 820.

that would protect the separate copyright of the musician/composer confirm the defeating of these interests upon their inclusion into a cinematograph film.

If we do nothing from here on out, then perhaps the writing is on the wall for the artists of this industry. Let me not waste any more time and speak my eulogy to the artist… that dreamer who's struggles make this city the city of dreams …

The brush, a weary hand, now dips in hues of gray,
A final stroke, a whispered, "I must fade away."
The canvas shrinks, a mirror to the fading light,
Reflecting back the hues of a dying, fading night.
The palette's colors, once a vibrant, bold display,
Now muted tones, like memories of yesterday.
The artist's eyes, once sparkling, now dim and soft,
A silent plea, a gentle, fading, final loft.
But in this twilight, beauty still takes flight,
A masterpiece of darkness, bathed in pale moonlight.
The dying colors blend, a symphony of grace,
A final portrait etched upon time's endless space.
Though shadows lengthen, and the world grows dim,
The art remains, a testament to them.
A fading canvas, a soul's final art,
A legacy of beauty, forever in the heart.

6. Conclusions

The Competition Commissions views on collectively bargained arrangements between producers and artists and their myopic and binary conceptualization of provisions aimed at ensuring a right of first offer to members of trade unions of artists presents yet another stumbling block in the protection afforded to artists. The apparent contradiction in how the Competition Commission views these agreements in comparison to inter producer/distributors is again a serious matter of concern. The Courts must also appreciate that these artists are in a rather precarious position. It is not fair to ask a junior or upcoming article to individually take on a producer/production house. Not only are these people in completely different positions economically and socially, the very act of assertion by the junior artist is likely to be met with coercion, reprisal and other forms of backlash. The Indian legal framework needs to address each of these concerns if it is to protect these artists. The film industry is nothing without them.

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