

Copyright made easy

Somabha Bandopadhyay, Ph.D.

Assistant Professor

National Forensic Sciences University, Delhi

Manipuri Dance artist

Recipient of the Young Artist Scholarship and CCRT Scholarship

Ministry of Culture, Government of India

1. **Copyright** is a **bundle of rights** given to creators or authors. Copyright is protected under the Indian Copyright Act 1957. Section 14 defines copyright as an exclusive right.
2. This exclusive right allows the author or creator of the creative **artistic** work to do or authorize to do:
 - a. Reproduce the work
 - b. Communicate to public the work
 - c. Issue copies of the work
 - d. A cinematographic film
 - e. Adaptation of the work
 - f. Any other act of adaptation as specified above.
3. The **creation** of an artistic work itself makes it **copyrighted**. It need not be registered to protect it or claim it to be protected.
4. International agreements protect Copyright at an international level. The Berne Convention for the Protection of Literary and Artistic Works, usually known as the Berne Convention, is an international agreement governing copyright.
5. For the protection of rights of performers, the World Intellectual Property Organization (WIPO) brought the WIPO Performers' and Phonograms Treaty 1996. The Indian Copyright law has been amended to incorporate this and now performers' rights protect artists.
6. Under Copyright Act, **performance** is defined under section 2(q) as any visual or acoustic presentation made live by one or more performers and **performer** (section 2 (qq)) is defined as an actor, singer, musician, dancer, acrobat, juggler,

conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance. But, a person whose performance is casual or incidental in nature and in the normal course of the practice of the cinematography industry in a film, shall be entitled to moral rights only.

7. Performers have rights of two kinds:
 - a. **Moral Rights** including right to be identified as a performer or claim damage.
 - b. **Exclusive Performance Rights** like point 2 above.
8. Copyright lasts for **lifetime of the creator + 60 years**
9. Dancers' rights would be covered mainly under **Performers' rights** and also **dramatic rights** where the author would be the main artist or group of performers who conceive and choreograph the item. All others could be considered as co-authors. However, the others would not be considered as author or co-author of the production or item, but could be deemed so if they are assigned or licensed through an agreement with the main artist.
10. **Licensing and assignment** both have to be made through a contract.
 - a. Owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing by him or by his duly authorised agent.
 - b. Assignment can be to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright
11. In case of **broadcasting of the performance**, the broadcaster has right over the broadcast for 25 years from the next calendar year of the broadcast.
12. **Section 52** allows for use of the artistic work without infringement of copyright.

The following is **fair dealing** under this section:

 - a. private or personal use, including research;
 - b. criticism or review, whether of that work or of any other work;
 - c. the reporting of current events and current affairs, including the reporting of a lecture delivered in public.
13. **Remedies for infringement** can be either of a civil litigation or criminal charges.

- a. Section 55 deals with
 - i. Injunction or prohibition of continued use of the work,
 - ii. Accounts of Profits to be declared and given back the author and
 - iii. Payment of damages
 - iv. Can approach Registrar of Copyright- can be appealed to Appellate Board- High Court
- b. Sections 63 to 70 deals with **punishments** that is criminal in nature
 - punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees
 - Magistrate can be approached.