

**Why care about balance??: Insights from an empirical study on the perception of moral rights protection in India**

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**Abstract**

This work explores the need for establishing a balance within the copyright regime, a balance that could provide authors and creators sufficient protection against the economically and politically powerful lobbies in unbalanced negotiation tables. While the concept of moral rights has been a subject of analysis in many legal works and international negotiation forums, few empirical enquiries have attempted to explore how the broader population perceive those rights. This work takes a step in this direction by conducting an extensive empirical enquiry, on the backdrop of a recent moral rights controversy in India.

The controversy relates to the lack of proper attribution in a movie to a book, from which the movie was adapted. The book was one of the best selling English-language novels in India and the movie also subsequently became the highest-grossing movie in the history of Indian film industry. It was only during the release of the movie that the novelist realised the lack of proper attribution for the book and he subsequently requested the movie production house to rectify the same. Even though the only request of the novelist was to provide a better attribution for his book, it was harshly rejected by the movie production house. The verbal spat between the novelist and the movie production team before the media in the following days brought the issue to the attention of the wider public in India. As both the movie in question and the book from which the movie was adapted were highly popular in India, this controversy provided a unique opportunity to explore the public perception of one major element of moral rights, the right of attribution. Such empirical enquiries are critical as many national legislatures have been subject to intense lobbying by politically and economically powerful groups, under the disguise of public interest, to prevent any (stronger) protection of moral rights. The position taken by the US Congress on moral rights protection during its adherence to Berne Convention is a classical example for the power of lobbying efforts in this regard.

The extensive empirical study conducted as part of the present work, in different parts of India, provides evidence for the high public support for the concept of moral rights. Taking the example of the moral rights controversy in India, the study also analyses the legal position of the issues involved, from a comparative perspective. The study also shows how even strong laws might be failed by other

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circumstances. The present study highlights not only the need for a stronger protection of moral rights, but also stronger efforts to build balanced negotiation tables, so as to establish a meaningful balance within the copyright framework.