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# **FINDING A PLACE FOR LIVE STAND-UP COMEDY IN DRAMATIC WORK: CHALLENGES AND SOLUTIONS**

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## **ABSTRACT**

Stand-up comedy occupies an uncertain position within Indian copyright law. Although the Copyright Act, 1957 protects literary, dramatic, musical, and artistic works, stand-up comedy does not neatly fit any single category and is most often examined through the lens of “dramatic work.” This article analyses whether live stand-up comedy can satisfy the three essential requirements of dramatic work under Indian and comparative law, namely originality, the idea-expression dichotomy, and fixation. Through an examination of Indian and foreign case law, including *Foxworthy v. Custom Tees*, *Kaseberg v. Conaco*, and *R.G. Anand v. Deluxe Films*, the article argues that while a comedian’s written script may satisfy originality, the spontaneous, improvisational, and largely unscripted nature of live performance makes it difficult to satisfy the idea-expression dichotomy and, more critically, the fixation requirement. The article further explores an alternative route to protection, performers’ rights under Section 38 of the Copyright Act, and contends that recognising comedians as performers offers a more workable and immediate safeguard for their creative labour than forcing stand-up comedy into the mould of dramatic work. The article concludes by proposing that Indian copyright law should evolve to more explicitly accommodate live, improvisational performance art such as stand-up comedy.

**Keywords:** *Stand-up Comedy, Dramatic Work, Copyright Act, 1957, Idea-Expression Dichotomy, Fixation, Performers’ Rights.*

## **INTRODUCTION**

An expression that goes much beyond the simple delivery of jokes, stand-up comedy is a type of expression that is both distinctive and dynamic. It involves the creation of narratives, the investigation of social criticism, and the direct engagement with audiences<sup>1</sup>. All of which contribute to the creation of an immersive experience that has an impact on the individuals. A

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<sup>1</sup>Marianna Keisalo, *Social Analysis: The International Journal of Anthropology*, 62 Spring, 116-135 (2018).

significant amount of time and effort is invested by comedians in the process of improving their profession, refining their material, and establishing genuine connections with the people of their audience. The dedication of comedians like Vir Das who has recently grabbed an Emmy<sup>2</sup>, Kenny Sebastian, Kannan Gill, and Kapil Sharma are illustrated by their Netflix specials, which have demonstrated the capacity of stand-up comedy to transcend cultural borders and the universal appeal of stand-up comedy.

When compared to more conventional kinds of entertainment, such as written television shows or movies, stand-up comedy thrives on spontaneity, improvisation, and sincerity. Every performance is a one-of-a-kind combination of material that has been rehearsed and encounters that have occurred spontaneously. Comedians draw inspiration from their own personal experiences, observations, and the norms of society. This genuineness is what frequently sets stand-up comedy apart from other types of entertainment and helps to develop a deeper connection between the comic and the audience that they are performing for.

However, when it comes to safeguarding the copyright of comedians, comedians face a dilemma because stand-up comedy is so distinctively different from other forms of comedy. Stand-up comedy does not cleanly fall into any of the categories of work. Despite the fact that the Copyright Act of India offers a legal framework for the protection of original works on the literary, dramatic, musical, and artistic work, nevertheless, according to the Act, it may be considered as dramatic work.

‘Computer programs, tables, and compilations, including computer databases, are all eligible for copyright protection as a literary work.’<sup>3</sup> On the other hand, a ‘dramatic work comprises any form of recitation, choreography, or entertainment presented through physical expression, which is fixed, but excludes cinematographic films.’<sup>4</sup> Due to the fact that stand-up comedy incorporates both spoken word performances and theatrical components, it is within the scope of these categories and hence, may qualify for copyright protection.

For stand-up comedians to be eligible for copyright protection under dramatic work, their performances need to fulfil several requirements. These requirements include complete

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<sup>2</sup>Vir Das wins maiden International Emmy Award for best comedy, The Hindu, November 21, 2023.

<sup>3</sup>The Copyright Act, 1957, § 2 cl.o, No. 14, Acts of Parliament, 1957.

<sup>4</sup>The Copyright Act, 1957, § 2 cl.h, No. 14, Acts of Parliament, 1957.

‘originality’<sup>5</sup> complete ‘fixation,’<sup>6</sup> and complete satisfaction of the ‘idea-expression dichotomy’<sup>7</sup>. The independent creation of a work without copying from another source is originality, which is an essential principle of copyright law. Despite the fact that jokes and comic routines may draw inspiration from pre-existing cultural references or experiences that are common to both parties, the comedian must be the one who comes up with the original presentation of those ideas.

Fixation is a further essential element for the protection of copyright. The work must be documented or preserved in a physical manner, such as audio or video recordings, written scripts, or transcriptions. This information must be kept for future reference. In this way, the work is guaranteed to be adequately fixed and capable of being duplicated, distributed, or conveyed to the general public.

In addition, to fulfil the requirements of the idea-expression dichotomy, it is necessary to differentiate between the fundamental ideas or concepts that are communicated through the performance and the particular expression or manifestation of those ideas. Although copyright law protects the latter, it does not extend to the former, which continues to be in the public domain throughout the entire process. In the context of stand-up comedy, where comedians frequently draw from common experiences or cultural standards to craft their material, this distinction is especially pertinent because of the nature of the material that they create.

When it comes to stand-up comedy, however, spontaneity, improvisation, and honesty are essential components. Comedians draw inspiration from their own personal experiences, observations, and the conventions of society, which results in each performance being their unique creation. When it comes to preserving the copyright of comedians, however, their very distinctiveness presents a difficulty that must ultimately be overcome.

### **DRAMATIC WORK: UNVEILING THE ESSENTIALS**

Copyright, sometimes referred to as the bundle of rights, gives the owner of the subject matter that is subject to copyright an exclusive right to exploit his original works for profit and to keep them safe from unauthorised use.

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<sup>5</sup>The Copyright Act, 1957, § 13 cl.1, No. 14, Acts of Parliament, 1957.

<sup>6</sup>Institute for Inner Studies & Ors v. Charlotte Anderson & Ors., (2014) 57 PTC 228.

<sup>7</sup>Baker v. Selden, (1879) 99 US 101.

Section 13 of the Copyright Act states that the types of work covered by copyright are: (a) sound recordings; (b) cinematograph films; and (c) original, literary, dramatic, musical, and artistic works.<sup>8</sup> While derivative works are protected by sections 13(b) and (c)<sup>9</sup>, original works are protected by section 13(a). It permits the expression of original work and the areas that are mentioned in it. It states that the copyright does not exist outside of the Act and is subject to the terms of both the stated section and the other Act provisions.<sup>10</sup> It is a right established by statute, and no right not covered by the aforementioned Act may be asserted.

Copyright subsists in original dramatic work and for that, we need to understand dramatic work. “Dramatic work includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise but does not include a cinematograph film.”<sup>11</sup> By carefully examining Section 13 and using this definition, we may deduce the fundamental requirements needed to define a dramatic work.

### **Originality**

Copyright protection extends to original dramatic works, which are characterized by the unique expression of ideas rather than mere replication. This expression originates from the author’s mind and doesn’t require direct copying from other sources. Original dramatic works, as such, result from the author’s intellectual effort, whether it involves verbal or numerical content, need not have aesthetic value, can be written down, and must demonstrate a significant level of independent skill, creativity, or judgment in their creation.

An original work is one that isn’t directly lifted verbatim from another source. In copyright law, the term “original” does not always imply that the work is the result of entirely original or creative ideas. The expression of ideas is the main objective of the Copyright Act, not the originality of the ideas themselves. Rather than demanding that the presentation’s format be entirely novel or exceptional, the requisite originality refers to the manner in which the ideas are delivered. Instead, what is crucial is that the work comes from the author and is not a direct copy of another work.<sup>12</sup>

In “Macmillan v. Cooper”,<sup>13</sup> the court emphasized that copyright protection extends to the

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<sup>8</sup>The Copyright Act, 1957, § 13, No. 14, Acts of Parliament, 1957.

<sup>9</sup>The Copyright Act, 1957, § 13, No. 14, Acts of Parliament, 1957.

<sup>10</sup>Time Warner Entertainment Company L.P. & Ors v. RPG Netcom, (2007) 34 PTC 668.

<sup>11</sup>The Copyright Act, 1957, § 2 cl.h, No. 14, Acts of Parliament, 1957.

<sup>12</sup>University of London Press Ltd. v. University Tutorial Press Ltd., (1916) 2 ChD 601.

<sup>13</sup>Macmillan v. Cooper, AIR 1924 PC 75.

output of an individual's labour, skill, and investment, rather than the basic materials or ideas used. To qualify for copyright, the effort and resources expended must imbue the product with qualities or characteristics beyond those of the original materials.

Similarly, in "Rupendra Kashyap v. Jiwan Publishing House",<sup>14</sup> the court clarified that the term "original" in the Copyright Act of 1957 doesn't demand novelty of ideas. Instead, it signifies that the work should not be a direct copy of another and should genuinely originate from the author, reflecting their personal labour and skill.

### **Requirement of Creativity**

In "Feist Publications Inc. v. Rural Telephone Service Co. Inc.",<sup>15</sup> it was emphasized that originality is the heart of copyright protection. In simpler terms, for a work to be eligible for copyright, it must be the author's creation and exhibit at least a small amount of creativity. This means it must not be directly copied from someone else, but rather come from the author's own ideas, no matter how basic or simple those ideas might be.

In Feist Publications, the Judiciary highlighted that 'originality' doesn't demand groundbreaking or highly innovative content. Even a tiny bit of creativity, as long as it's independent and not copied, is sufficient for copyright protection. This decision sets a low threshold for what qualifies as original, making copyright accessible to a wide range of creative works.

Likewise, in "Eastern Book Company v. D.B. Modak",<sup>16</sup> the Court reinforced this notion, clarifying that while a work doesn't have to be entirely new or unique, it must still demonstrate some level of creativity beyond mere copying. Essentially, to claim copyright, a work must bear the imprint of the author's own creativity, even if it's just a small amount. These rulings underscore the inclusive nature of copyright law, ensuring that even works with modest levels of creativity are afforded protection.

### **Idea Expression Dichotomy**

It is well-settled that the idea-expression divide would protect the way an idea is expressed instead of the idea itself. Courts have said many times that one can't copyright ideas; one can only copyright how a thought is expressed. An idea is a thought about a certain subject put into words, while an expression is how that thought is put into action. Even if many people have the

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<sup>14</sup>Rupendra Kashyap v. Jiwan Publishing House, (1996) PTC 439.

<sup>15</sup>Feist Publications Inc. v. Rural Telephone Service Co. Inc., (1991) 499 US 340.

<sup>16</sup>Eastern Book Company v. D.B. Modak, AIR 2008 SC 809.

same idea, each of them can only claim copyright for one way of expressing that thought. This kind of expression has to be very unique.

In the case of “Baker v. Selden”, which addressed the copyright over an account book, the United States Supreme Court made the ruling that is considered to be the oldest instance of the idea-expression distinction.<sup>17</sup> A clear distinction was established between an idea and its expression by the Supreme Court of the United States. The fundamental reason for this was that, in the absence of such a distinction, it would result in the holder of the copyright having an excessive scope of monopoly, which would be equivalent to anti-competitive activity.

In “International News Service v. Associated Press”,<sup>18</sup> it was determined that there is a distinguishing difference between an “idea” and “an expression of the idea.” The protection of copyright is not available for a concept by itself; rather, a novel expression of that idea is eligible for protection.

In the case of “Kalpakian v. Herbert Rosenthal Jewellery Corporation”,<sup>19</sup> during the process of settling the case, the court made reference to the difference between ideas and expressions, and ultimately decided in favour of the defendants. It was declared by the court that there was no other manner in which this particular concept of a jewelled bee could be expressed. As a result, the expression merged with the idea itself, and because the idea cannot be protected, the defendant was free to incorporate it into the things that it offered.

In “Foxworthy v. Custom Tees, Inc”<sup>20</sup>, comedian Jeff Foxworthy sued Custom Tees for selling t-shirts with his trademarked line “You might be a redneck if...” and other jokes, alleging infringement of his copyright and trademark rights. The court rejected Custom Tees’ argument that the jokes were unoriginal, affirming that copyright protects the expression of ideas (such as Foxworthy’s unique delivery), not the underlying ideas themselves.

There is, however, no mention of the ‘idea-expression dichotomy’ in the Act that is in effect in India. The judgment of the Apex Court in “R.G. Anand v. Deluxe” appears to have provided some support for the idea-expression dichotomy phenomenon. In this particular case, the court decided that copyright cannot be acquired over an idea. Furthermore, the court ruled that the differences between the two works were significant enough to lead one to the conclusion that there was no reasonable replica of his play’s screenplay. Because this case was decided by the Supreme Court, the principles that were established in it are now a part of the law of the land

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<sup>17</sup>Baker v. Selden, (1879) 99 US 101.

<sup>18</sup>International News Service v. Associated Press, (1918) 248 US 215.

<sup>19</sup>Kalpakian v. Herbert Rosenthal Jewellery Corporation, (1971) 446 F2d 738.

<sup>20</sup>879 F. Supp. 1200 (N.D. Ga. 1995).

and continue to be applicable even today.<sup>21</sup>

From the judgments of the court, it has been made clear that there exists a distinction between an idea and an expression., it is only the expression which is protected and not an idea.

### **Performance and Fixation**

“Dramatic work includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematograph film.”<sup>22</sup> The majority of drama is a sort of writing that is intended for oral and practical performance, and it is during the time when imaginative writing was considered to be synonymous with “literature,” and especially with printed literature, that some of the characteristics of drama have been misconstrued the most persistently. It is possible to read plays that have been printed out as literature; it is common practice to read the texts of great plays as dramatic literature. In spite of the fact that the primary classification is literary work and dramatic work, it is not possible to infer that dramatic work is unrelated to literary work. A “literary work” allows one to read the printed words, whereas a “dramatic work” is the text upon which the performance of the play is based. This is the only distinction between the two types of works. Without the author’s creative ability, neither of the two can be generated.

The statement that a dramatic work must be capable of performance was made by Lord Bridge in the case of “Green v. Broadcasting Corp. of New Zealand.”<sup>23</sup> A similar decision was made by the Court of Appeal in the case of “Norowzian v. Arks Ltd.”, which stated that a dramatic work was any work of action, regardless of whether or not it contained words.<sup>24</sup> Thus in “Academy of General Education v. B. Malini Mallya” the court held that a dramatic work is also a form of literature. The Privy Council has stated that “a dramatic work” must have sufficient unity to be capable of performance.<sup>25</sup>

One other condition that must be met for a piece of work to be classified as a dramatic work is that the subject matter must be fixed in some way, whether through writing or some other method. It is necessary to reduce it to writing in order to be eligible for protection under copyright requirements. There is no significance to the type of writing. The word “writing” can be defined to encompass any type of notation or code, regardless of whether it is written by

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<sup>21</sup>R.G. Anand v. Deluxe Films, AIR 1978 SC 1613.

<sup>22</sup>The Copyright Act, 1957, § 2 cl.h, No. 14, Acts of Parliament, 1957.

<sup>23</sup>Green v. Broadcasting Corp. of New Zealand, (1989) 2 All ER 1056.

<sup>24</sup>Norowzian v. Arks Ltd., (2000) FSR 363.

<sup>25</sup>Academy of General Education v. B. Malini Mallya, ILR 2008 KAR 1074.

hand or in any other way, and regardless of the manner by which it is written.

This indicates that the events must be predetermined and certain.<sup>26</sup> If there is a reasonable uncertainty regarding the entire certainty of the performance of the work in the manner that was envisioned by the author or writer, situations like these are considered to be such that the work does not meet the prerequisite of fixation or assurance of the performance, and it cannot be classified as a dramatic work.

## **STANDUP COMEDY AND ITS FULFILLMENT OF ESSENTIALS?**

### **Originality**

To determine whether or not a dramatic work is unique, it must satisfy the essential condition of coming from one's ability, labour, and judgement, as opposed to being a simple copy-and-paste work. One of the most important aspects of copyright is the notion of originality, which states that creativity is not required but is an essential component. Each component, from the intricate details of the plot to the progression of the characters, ought to bear the imprint of the creator's unique expression. Therefore, although creativity is not an absolute requirement, it is necessary to have some degree of it to distinguish the work as being truly original. The manifestation of personal involvement, as opposed to wholesale imitation, is the core of copyright in dramatic works.

While the comedian is performing on stage, he has made a lot of preparations for himself. He has created a script for himself, and that script is made by the use of his own independent skill, labour, and judgment. Hence, one can say that it satisfies the element of originality.

However, when we look closer at the nature of stand-up comedy, the capacity of the comic to create and deliver jokes in a manner that is distinctively their own is the central focus of this aspect of the comedy. Even though the jokes themselves may be written down as scripts, the core of stand-up comedy is in the individual skill, labour, and judgement of the comedian in bringing those jokes to life on stage. What genuinely distinguishes the material as original is not only the words that are written down on paper., rather, it is the comedian's interpretation, timing, delivery, and connection with the audience that are the most important factors.

Furthermore, the ability of the comic to draw on their own personal experiences, views, and insights is essential to the success of stand-up comedy. This capability allows the comedian to infuse their material with authenticity and individuality. Even if two comedians were to execute the same joke from a screenplay, their respective personalities, points of view, and comedic

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<sup>26</sup>Institute for Inner Studies & Ors v. Charlotte Anderson & Ors., (2014) 57 PTC 228.

sensibilities would undoubtedly come through, resulting in two performances that are very different from one another. Stand-up comedy is a type of art that is praised for its innovation, spontaneity, and ability to connect with audiences on a deeply personal level.

Hence, one cannot say the script is original but rather what the comedian performs on stage to be original.

### **Idea Expression Dichotomy**

Within the field of copyright law, the premise of preserving the expression of ideas, as opposed to the ideas themselves, is a well-established principle. This concept, which is referred to as the idea/expression dichotomy, is particularly relevant when it comes to the realm of stand-up comedy. Comedians, who rely significantly on the inventiveness and uniqueness of their content, frequently find themselves with the challenge of navigating the complexities of this legal concept. Nevertheless, when this dichotomy is applied to jokes, it can leave comedians with a limited amount of protection.

As a result of the fact that the underlying concept that is being communicated by a joke is frequently the one that causes the audience to laugh, this presents one of the most fundamental obstacles. Even though jokes might differ in terms of their phrasing and delivery, the concept or premise that lies behind them is what contributes the most to the humour. Because of this, comedians could find themselves in a hazardous position, where their unique ideas are susceptible to being appropriated by other people. This susceptibility is made even more severe by the fact that different ways of expression can convey the same script.

Hence, it can be concluded that the script that the comedian writes is not the expression in itself but the idea which will be expressed by the comedian when he is on stage.

### **Performance and Fixation**

Having the ability to carry out activities that have been predetermined is essential and bears substantial weight in determining dramatic work. Whenever there is even the slightest suggestion of uncertainty regarding the performance, it gives rise to real worries regarding its place in dramatic work.

The essence of fixation rests in the fact that events are predefined, meaning that they are clearly defined and detailed before being carried out. This predetermined feature guarantees that there is a definitive comprehension of what is to be performed and how it ought to be carried out.

When it comes to copyright protection, a joke must be recorded or fixed in a tangible form of expression for it to be considered eligible for protection. This condition can be satisfied by

simply writing the joke down on paper. Nevertheless, the nature of stand-up comedy provides hurdles that must be overcome to complete this criterion. Many stand-up routines incorporate spontaneous interactions with the audience, such as responding to hecklers or improvising on the spot, in contrast to fully scripted performances. It is common practice for comedians to modify their material to cater to the particular audience they are performing for, which can lead to changes in the manner in which jokes are delivered.

Due to the fluid nature of stand-up comedy, jokes may be subject to modifications or alterations in real time as they are being performed. Even though a comedian has a version of a joke written down before a show, they may decide to tell it differently, depending on the reactions of the audience or the flow of the performance. This flexibility and spontaneity are essential components of the creative form; nonetheless, they might provide difficulties when it comes to satisfying the fixation criterion for copyright protection.

The fixation criterion stipulates that for jokes to be eligible for copyright protection, they must either be recorded or fixed in a method that offers stability. On the other hand, if comedians do not rigorously fix these changes as they occur, it is possible that the jokes will not be safeguarded against unauthorised duplication or usage. Consequently, comedians may find their material susceptible to exploitation until it is adequately fixed in a concrete medium of expression, even though they have invested a great deal of ingenuity and work in the process of developing and delivering jokes.

Although the fixation requirement is designed to protect creative works, the application of this criterion to the fluid and spontaneous character of stand-up comedy poses a number of challenges. Comedians need to strike a balance between the requirement for spontaneity and the need for fixation to guarantee that their jokes are protected by the applicable copyright restrictions.

### **WAY AHEAD FOR STAND-UP COMEDIANS**

In “Foxworthy v. Custom Tees”<sup>27</sup>, the comedian Jeff Foxworthy filed a lawsuit against Custom Tees, alleging that the company had violated his copyright by selling t-shirts that were identical to his famous “you might be a redneck if...” jokes. The defendants fought against a preliminary injunction, arguing that Foxworthy’s jokes were not unique since he occasionally obtained ideas for them from other people. In contrast, the court did not agree with the defendants and emphasised that the issue at hand was not the originality of the idea that Foxworthy used in his

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<sup>27</sup>Foxworthy v. Custom Tees, (1995) 879 F. Supp. 1200.

jokes, but rather the originality of the expression. The court observed that even if two entertainers may tell the same joke, they were not permitted to use each other's particular word combination or expression. Because of this, the court concluded that the defendants had duplicated the protected expression of Foxworthy's jokes, which bolstered the possibility that he would be successful in his copyright claim on the basis of its merits.

Even though the Foxworthy case provides security to comedians who are looking to protect their jokes under copyright, the case largely focused on originality and did not thoroughly investigate the idea-expression dichotomy.

The court in "Kaseberg v. Conaco, LLC" held that a thin protection of copyright must be given to comedians for their jokes.<sup>28</sup>

These instances show that jokes must be almost identical for copyright infringement to occur when they involve one-liner jokes with little protectable information. It's crucial to remember that the jokes looked at in these situations do not necessarily reflect the gags that are commonly told in today's stand-up comedy scene. The jokes in question are specifically what is known as "one-liner jokes" or "two-liner jokes," which are not frequently utilized in modern stand-up performances. These days, a large proportion of stand-up comedians have moved from the classic one-liner format to extended monologues with a stronger narrative thread that expresses the comedian's viewpoint.

From the above two judgments, it is clear that for one-liners or two-liners the courts have given protection. Based on this, comedians may claim copyright in the same.

However, two key hurdles preventing stand-up comedy from qualifying as a dramatic work are the idea/expression dichotomy and fixation. If these obstacles are overcome, comedians could potentially qualify for protection under dramatic work.

### **PERFORMERS RIGHT**

Even if live stand-up comedy isn't typically classified as dramatic work, comedians' skill and effort should still be respected. Therefore, "performers' rights" would be the most appropriate

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<sup>28</sup>Kaseberg v. Conaco, LLC, (2018) 260 F. Supp. 3d 1229.

rights for comedians. In terms of performers' rights, the notion of "performance" includes any live visual or aural presentation by one or more artists<sup>29</sup>. Furthermore, the term "performer" encompasses a broad spectrum of people, including actors, singers, musicians, dancers, and lecturers<sup>30</sup>.

In August 2024, the Bombay High Court granted an interim decision in Singh's favor, addressing improper AI manipulation of his voice, identity, and character across several channels. Singh claimed that his personality rights were being exploited without his knowledge since these platforms supplied AI tools that could emulate his distinct singing style, voice, and mannerisms, thereby economically abusing his public image. The court found that such tools not only infringed Singh's rights but also misled the public by generating counterfeit audio and video content featuring him. This ruling highlighted the growing acknowledgment of personality rights.<sup>31</sup>

Comedians certainly fall under this criterion because they perform scripted material live for an audience. During their performances, they act out dialogue or jokes, interact with the audience directly, and make people laugh with their comic timing and delivery. Comedians are therefore legitimately categorised as performers and, as such, are entitled to the protections provided by performers' rights.

Comedians are entitled to these rights under Section 38 of the Copyright Act<sup>32</sup>. This recognition acknowledges stand-up comedy's distinctiveness as a live performance art form that sets it apart from more conventional dramatic works. Even while stand-up comedy may not precisely fit into traditional ideas of drama, its practitioners nevertheless put their imagination, talent, and hard work into entertaining and involving audiences.

Comedians' rights are extended by copyright law to recognise and honour their contributions; comedians have the ability to maintain control over their performances. In the end, the fact that copyright law may recognise comedians as performers emphasises how crucial it is to safeguard expression in a variety of media, including live comedic performances.

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<sup>29</sup>The Copyright Act, 1957, § 2 cl.q, No. 14, Acts of Parliament, 1957.

<sup>30</sup>The Copyright Act, 1957, § 2 cl.qq, No. 14, Acts of Parliament, 1957.

<sup>31</sup>Arijit Singh v. Codible Ventures LLP, Interim Application (I) No. 23560 of 2024 in Com IPR Suit No. 23443 of 2024.

<sup>32</sup>The Copyright Act, 1957, § 38, No. 14, Acts of Parliament, 1957.

## **CONCLUSION**

There are particular opportunities and challenges related to copyright protection in the stand-up comedy industry. Even though stand-up comedy may not easily fit into established dramatic work categories, comedians should be honoured for their commitment and talent. Due to the improvised and spontaneous nature of stand-up comedy, comedians may find it difficult to meet the requirements; nevertheless, recent court decisions, such as “Foxworthy v. Custom Tees”, have given some certainty that comedians’ creative expressions will be protected.

Comedians can be afforded extra protection by recognizing them as performers. Copyright law recognizes the uniqueness of live comedy performances, and the same may uphold comedians’ rights to control and profit from their creative endeavours by extending performers’ rights to them.

Taking these factors into account, comedians’ contributions to the cultural environment should be acknowledged and given legal protection, even though stand-up comedy may pose particular difficulties for copyright protection. Comedians can carry on sharing their distinct viewpoints and entertaining audiences worldwide by embracing performers’ rights and maneuvering through the difficulties of copyright legislation.



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