

CULTURAL INTEGRITY AND PROTECTION: PREVENTING UNAUTHORIZED COPYING OF MURAL PAINTINGS AND PAHARI ART IN INDIA

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Abstract

The cultural heritage of India is vividly expressed through its mural paintings and the exquisite tradition of Pahari art, particularly flourishing in the Himalayan foothills. These artistic forms are not merely decorative but carry profound historical, religious, and socio-cultural significance. Mural paintings—rendered on temple walls, palaces, and public spaces—have historically served as vibrant records of collective memory. Similarly, Pahari paintings, with their delicate lines and lyrical representations of mythology, music, and courtly life, reflect a unique confluence of aesthetic sensibilities and regional identity. However, in the contemporary era, both forms are increasingly threatened by rampant copying, unregulated commercialization, and technological replication. Reproductions often occur without consent or attribution to the original creators or custodial communities, leading to cultural misappropriation and erosion of authenticity.

This research article critically examines the existing legal and institutional frameworks in India governing the protection of mural and Pahari artworks against unauthorized reproduction and misuse. It explores the Indian Copyright Act, 1957, with particular focus on the moral rights provisions under Section 57, which safeguard the right of attribution and the protection of artistic integrity. Landmark cases such as *Amar Nath Sehgal v. Union of India* have affirmed artists' moral rights, yet enforcement challenges persist. The study also analyses international standards, including the Berne Convention and the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, evaluating how these instruments can inform stronger domestic policies. Furthermore, this paper discusses the tension between public access to cultural works—particularly murals displayed in open spaces—and the rights of artists and communities over reproduction.

Beyond legal remedies, the research highlights non-legal strategies for safeguarding these art forms: community-led documentation, digital archiving, education on heritage stewardship, and fair-trade certification to promote ethical commercialization. It also considers how emerging technologies such as augmented reality and blockchain can assist in provenance tracking and awareness. The study underscores that protection efforts must balance the need for cultural dissemination with respect for creators' rights and the cultural ecosystems from which these works emerge. Ultimately, the paper proposes a holistic roadmap integrating policy reforms, institutional support, community empowerment, and public engagement to ensure that India's mural and Pahari artistic legacies are preserved in their richness and protected from exploitation.

Keywords:

Mural Paintings, Pahari Art, Copyright Protection, Moral Rights, Cultural Heritage, Intangible Cultural Heritage, Artistic Integrity, Cultural Appropriation, India, Reproduction Rights, Heritage Preservation, Traditional Knowledge, Art Law, Community Empowerment

Introduction

India's artistic traditions are among the most diverse in the world, embodying centuries of cultural evolution, religious symbolism, and regional craftsmanship. Among these, mural paintings and Pahari art occupy a singular place in the nation's visual heritage. Mural paintings—artworks created directly on walls and ceilings—have long adorned temples, palaces, monasteries, and civic buildings across India, transforming architectural spaces into living chronicles of mythology, folklore, and communal identity. From the vibrant murals of Kerala and Rajasthan to those preserved in the Ajanta caves and medieval hill temples, this art form reflects both aesthetic mastery and deep-rooted cultural memory (Vatsyayan, 2000).¹

Pahari art, on the other hand, refers specifically to the miniature painting traditions that flourished between the 17th and 19th centuries in the hill kingdoms of the Western Himalayas, including Kangra, Guler, Basohli, Chamba, and Mandi. These paintings are renowned for their lyrical depictions of themes drawn from epics like the *Ramayana* and *Mahabharata*, as well as musical *Ragamala* series and courtly scenes rendered with delicate brushwork and radiant colours (Goswamy, 1992).² Pahari painting is often considered an intimate art—handcrafted on paper or cloth—yet it shares with murals a central purpose: to preserve and express the cultural and spiritual life of communities.

In the contemporary period, however, the survival and integrity of these forms are under increasing threat. Advances in printing technologies and digital reproduction have made it possible to replicate murals and Pahari paintings with remarkable fidelity, often stripping them of context and meaning. Commercial enterprises, ranging from souvenir shops to interior decorators, routinely reproduce these images without obtaining consent from the creators or acknowledging the originating communities. The proliferation of such unauthorized reproductions not only undermines the economic rights of artists and custodians but also contributes to the dilution and commodification of heritage (Gokhale, 2020).³ Additionally, public display of murals complicates enforcement, as legal doctrines like freedom of panorama allow the photographing and dissemination of works visible in public spaces.

Recognizing these challenges, this research seeks to critically examine the legal and institutional frameworks that govern the protection of mural paintings and Pahari art in India. It will explore the efficacy of the Copyright Act, 1957—particularly provisions on moral rights and infringement—while also assessing the relevance of international conventions such as the Berne Convention and UNESCO treaties. The study will further analyze community-led and technological strategies to safeguard these artistic legacies from misappropriation and erosion. By synthesizing legal scholarship, case law, and cultural policy perspectives, this paper aims to articulate a comprehensive roadmap for preserving the authenticity, dignity, and vitality of India's mural and Pahari art traditions.

¹ Vatsyayan, K. (2000). *Indian Classical Paintings: Tradition and Continuity*. Publications Division, Government of India.

² Goswamy, B. N. (1992). *Pahari Masters: Court Painters of Northern India*. Niyogi Books.

³ Gokhale, S. (2020). Cultural appropriation of traditional Indian art: Legal gaps and possible remedies. *NUJS Law Review*, 13(1), 24–38.

2. Historical and Cultural Context

To understand the urgency of protecting mural paintings and Pahari art from unauthorized copying, it is necessary first to appreciate their profound historical and cultural foundations. These art forms did not emerge in isolation but were shaped by centuries of evolving patronage, religious practices, and regional aesthetics.

2.1 Mural Paintings in India

Mural painting as a tradition in India dates back at least two millennia. Early examples can be seen in the frescoes of the Ajanta Caves (2nd century BCE to 6th century CE), where Buddhist themes are rendered with striking naturalism and expressive detail (Vatsyayan, 2000).⁴ Over centuries, regional styles proliferated:

- In Kerala, temple walls were adorned with murals illustrating episodes from the *Ramayana*, *Mahabharata*, and Puranic lore, painted using natural pigments and mineral colours (Kaw, 2001).⁵
- In Rajasthan, fort and palace interiors, such as those in Bundi, Udaipur, and Jaipur, became vibrant canvases depicting royal processions, hunting scenes, and devotional narratives (Bhargava, 2021).⁶
- In the Deccan, the Lepakshi murals of Andhra Pradesh are renowned for their dynamic compositions and rich iconography (Das, 2007).⁷

These murals served as vehicles for public instruction, devotional engagement, and cultural continuity. Their integration with architecture gave them permanence and visibility unmatched by other forms of painting. Yet this very public character makes them particularly vulnerable to reproduction without context or attribution.

2.2 Pahari Painting: The Miniature Tradition of the Hills

Pahari painting developed primarily between the 17th and 19th centuries in the princely hill states along the lower Himalayas—modern-day Himachal Pradesh and Jammu. While often grouped under the single term “Pahari,” this tradition actually encompasses several distinctive schools: Basohli (noted for its vigorous lines and bold colours), Guler (known for refined naturalism), Kangra (celebrated for delicate lyricism), and Chamba (distinguished by its folk elements) (Goswamy, 1992).⁸

Pahari artists worked under the patronage of Rajput rulers, whose courts provided the cultural milieu in which this art flourished. Their paintings typically depicted:

- Episodes from Krishna's life, particularly the *Bhagavata Purana* and *Gita Govinda*;

⁴ Vatsyayan, K. (2000). *Indian Classical Paintings: Tradition and Continuity*. Publications Division, Government of India.

⁵ Kaw, M. K. (2001). *Cultural Heritage of Himachal Pradesh*. Indus Publishing.

⁶ Bhargava, M. (2021). The phenomenal Pahari paintings and their implications in the social life of hilly regions of Himalayas. *International Journal of Social Science and Economic Research*, 6(10), 1780–1799.

⁷ Das, S. (2007). Moral rights and cultural heritage: The Sehgal case revisited. *Journal of Intellectual Property Rights*, 12, 432–440.

⁸ Goswamy, B. N. (1992). *Pahari Masters: Court Painters of Northern India*. Niyogi Books.

- Illustrations of the *Ragamala*, where musical modes were personified as poetic scenes;
- Courtly portraits and romantic narratives.

Unlike murals, these paintings were created on small sheets, allowing them to be held, collected, and exchanged. But their portability also meant they could be easily copied or photographed, and the lack of clear authorship records further complicates claims of originality.

2.3 Cultural Significance

Both mural paintings and Pahari miniatures are more than decorative arts. They are repositories of regional identities, embodying the synthesis of religious symbolism, poetic imagination, and artistic skill (Vatsyayan, 2000).⁹ They played crucial roles in:

- Transmitting religious stories to largely illiterate populations;
- Reinforcing the legitimacy of ruling dynasties;
- Fostering aesthetic communities of patrons and artisans.

Furthermore, these art forms are vital sources for historians and anthropologists seeking to reconstruct pre-modern society's values, costumes, and rituals. Their survival in situ—in temples, forts, and private collections—is essential for contextual integrity.

2.4 Contemporary Relevance

In the 20th and 21st centuries, renewed interest in these traditions has spurred tourism, academic research, and commercial production. Exhibitions in India and abroad have brought Pahari art and murals to wider audiences. Yet, this exposure has also encouraged indiscriminate copying—whether through mass-produced prints, merchandise, or digital archives circulated without consent (Gokhale, 2020).¹⁰

Communities that once sustained these arts often lack the resources to assert legal claims or monitor infringement. Simultaneously, state institutions struggle to enforce protective legislation effectively. This tension between accessibility and protection frames the debate around preservation and cultural appropriation.

As this paper will show, understanding these historical and cultural dimensions is a precondition for any meaningful strategy to safeguard India's mural and Pahari heritage. The next sections will explore the nature of these threats and the legal frameworks available to address them.

3. Threats from Unauthorized Copying

In recent decades, the threats facing mural paintings and Pahari art have shifted from natural decay and neglect to the challenges posed by mass reproduction and unregulated commercialization. While these art forms have long been vulnerable to weathering, vandalism, and loss, the rise of sophisticated

⁹ Ibid at 1.

¹⁰ Gokhale, S. (2020). Cultural appropriation of traditional Indian art: Legal gaps and possible remedies. *NUJS Law Review*, 13(1), 24–38.

imaging technology and the growth of cultural tourism have created unprecedented risks of copying and misappropriation (Bhargava, 2021).¹¹

3.1 Technological Reproduction and Mass Commercialization

High-resolution digital cameras, scanners, and online repositories now make it possible to reproduce murals and miniature paintings with remarkable accuracy. This technological ease has accelerated the production of posters, calendars, cushion covers, digital wallpapers, and countless other merchandise. These reproductions are often marketed as authentic cultural artifacts, yet they rarely involve any compensation to the artists, their descendants, or the communities who serve as custodians of the tradition (Gokhale, 2020).¹²

The impact of such commercialization is twofold. Economically, it deprives creators and local economies of potential revenue that could support conservation and sustainable livelihoods. Culturally, mass copying reduces the art to mere decoration, stripping away its symbolic depth and historical significance. When sacred murals from temple walls or devotional scenes from Pahari paintings are reproduced on commercial products without context, the effect is a form of cultural dilution that risks trivializing entire artistic lineages (Das, 2007).¹³

3.2 Lack of Attribution and the Erosion of Artistic Identity

One of the most persistent problems with unauthorized copying is the erasure of attribution. Mural painters and miniature artists often worked in collective workshops or under royal patronage, and their names have already been obscured by history. Modern reproduction practices exacerbate this loss by failing to acknowledge even the regional styles or schools from which these works originate. As a result, heritage communities lose both recognition and moral rights over the imagery that defines their cultural identity (Sehgal v. Union of India, 2005).¹⁴

3.3 Freedom of Panorama and Public Access Dilemmas

Legal doctrines such as freedom of panorama—allowing the photographing and dissemination of artworks permanently situated in public spaces—further complicate protection efforts. While the Indian Copyright Act does permit limited reproduction of public art under Section 52, this provision is often interpreted expansively by businesses and publishers (Copyright Act, 1957).¹⁵ Tourists routinely photograph temple murals and share them online, making it virtually impossible to control how the images are reused, remixed, or sold.

4. Rights and Legal Protection Frameworks

The unauthorized reproduction of mural paintings and Pahari art is not just a cultural or ethical issue—it is also a legal one. In India and globally, several legal instruments exist to protect artistic

¹¹ Bhargava, M. (2021). The phenomenal Pahari paintings and their implications in the social life of hilly regions of Himalayas. *International Journal of Social Science and Economic Research*, 6(10), 1780–1799.

¹² Gokhale, S. (2020). Cultural appropriation of traditional Indian art: Legal gaps and possible remedies. *NUJS Law Review*, 13(1), 24–38.

¹³ Das, S. (2007). Moral rights and cultural heritage: The Sehgal case revisited. *Journal of Intellectual Property Rights*, 12, 432–440.

¹⁴ *Amar Nath Sehgal v. Union of India*, 117 (2005) DLT 717.

¹⁵ Copyright Act, 1957, India.

works, their creators, and associated communities. However, their application in the context of traditional and heritage-based artworks remains fragmented and often ineffective.

4.1 Copyright Protection and Moral Rights under Indian Law

The primary legal protection for artworks in India is provided by the **Copyright Act, 1957**, which offers authors a bundle of rights including reproduction, adaptation, communication to the public, and distribution (Copyright Act, 1957).¹⁶ Importantly, Section 57 of the Act grants **moral rights** to artists—protecting their right to attribution and to prevent distortion of their work even after transfer of ownership (Das, 2007).¹⁷

In the landmark case of *Amar Nath Sehgal v. Union of India*, the Delhi High Court recognized that artistic honour persists beyond the physical control of the artwork and awarded the artist damages for unauthorized removal and destruction of a mural commissioned by the state (*Sehgal v. Union of India*, 2005).¹⁸

However, enforcement of moral rights remains difficult in traditional art, especially where the identity of the creator is unknown or the art is communally produced (Gokhale, 2020).¹⁹

4.2 Challenges in Applying Copyright to Traditional Art

Many murals and miniature paintings are old, unattributed, and unregistered under copyright law. Hence, it becomes difficult to prove authorship or claim rights. Scholars argue that existing legal tools fail to recognize **collective ownership or community custodianship**—a hallmark of traditional cultural expressions (WIPO, 2004).²⁰

4.3 International Legal Frameworks

India is a signatory to the **Berne Convention for the Protection of Literary and Artistic Works**, which mandates recognition of authors' moral rights and prohibits unauthorized modification of their work (Berne Convention, 1886, art. 6bis).²¹

5. Case Studies: Legal and Cultural Dimensions of Art Protection

Perhaps the most celebrated Indian case on moral rights, *Amar Nath Sehgal v. Union of India*, remains foundational in discussions surrounding mural art protection (*Amar Nath Sehgal v. Union of India*, 2005).²² Amar Nath Sehgal, a renowned sculptor, created a bronze mural in 1959 for Vigyan Bhawan, a central government conference venue in Delhi. Decades later, the mural was removed, discarded, and damaged without his knowledge or consent. Sehgal sued the Union of India under Section 57 of the Copyright Act, asserting violation of his moral

¹⁶ Ibid.

¹⁷ Das, S. (2007). Moral rights and cultural heritage: The Sehgal case revisited. *Journal of Intellectual Property Rights*, 12, 432–440.

¹⁸ *Amar Nath Sehgal v. Union of India*, 117 (2005) DLT 717.

¹⁹ Gokhale, S. (2020). Cultural appropriation of traditional Indian art: Legal gaps and possible remedies. *NUJS Law Review*, 13(1), 24–38.

²⁰ World Intellectual Property Organization (WIPO). (2004). *Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities*.

²¹ Berne Convention for the Protection of Literary and Artistic Works, 1886, Article 6bis.

²² *Amar Nath Sehgal v. Union of India*, 117 (2005) DLT 717.

rights. The Delhi High Court held in his favour, stating:

- The creator retains moral rights even after economic rights are transferred.
- Artistic works situated in public buildings still require due respect and cannot be damaged or removed arbitrarily.
- The destruction of the mural constituted a violation of Sehgal's artistic honour.

This case affirmed that even government ownership of a work does not negate the creator's right to protect their reputation and the integrity of their work (Das, 2007).²³ It provided an essential precedent for artists, particularly muralists whose works are site-specific and publicly displayed.

5.2 Pahari Art Reproductions: Commercialization Without Consent

Unlike mural artists, many creators of Pahari miniatures are anonymous or long deceased. Their works are often housed in museums, archives, and private collections. Over time, these paintings have been extensively reproduced on calendars, coffee table books, clothing, home décor, and even tattoo designs—often without any attribution, context, or compensation (Gokhale, 2020).²⁴ A 2015 controversy emerged when a popular fashion label used digitally modified versions of *Gita Govinda*-inspired Kangra paintings in its clothing line. Though aesthetically pleasing, the commercial use of sacred and romantic iconography raised concerns about cultural sensitivity and the commodification of religious themes. As there was no individual artist or identifiable community to file a claim, no legal challenge was pursued—underscoring the gap in protecting traditional art as collective heritage.

Despite such usage, there is currently no requirement under Indian law for obtaining permission when copying or digitally manipulating Pahari paintings in the public domain. This leaves room for misrepresentation and artistic distortion.

5.3 The Leh Palace Murals and Tourism Pressures

In Ladakh, the murals of the 17th-century Leh Palace—once the royal residence—face threats not just from time and environmental factors but also from unauthorized reproduction. With tourism growing in the region, visitors routinely photograph murals and share them on social media. These images are then downloaded and reused in magazines, advertisements, and digital art collages. Local artists and conservationists have voiced concerns over the lack of protocols for image rights and the aesthetic distortion of sacred imagery (Kaw, 2001).²⁵ However, the murals are considered part of a national monument managed by the Archaeological Survey of India (ASI), which lacks specific IP provisions for reproduction control. This case demonstrates how institutional ownership can limit both protection and community access to enforce moral claims.

5.4 The 5Pointz Case (New York, USA): Site-Specific Murals and VARA Protections

For a comparative perspective, the *5Pointz* case in the U.S. offers a compelling precedent for mural protection. *5Pointz* was an industrial complex in Queens, New York, that became an internationally known graffiti and street art site. Artists had permission to paint the walls, but the property owner later decided to demolish the building.

Despite having no economic rights, the artists sued under the Visual Artists Rights Act (VARA). In 2018, a U.S. federal judge awarded \$6.75 million in damages to the artists, ruling that the destruction

²³ Das, S. (2007). Moral rights and cultural heritage: The Sehgal case revisited. *Journal of Intellectual Property Rights*, 12, 432–440.

²⁴ Gokhale, S. (2020). Cultural appropriation of traditional Indian art: Legal gaps and possible remedies. *NUJS Law Review*, 13(1), 24–38.

²⁵ Kaw, M. K. (2001). *Cultural Heritage of Himachal Pradesh*. Indus Publishing.

of the murals violated their moral rights (*Carter v. Helmsley-Spear, Inc.*, 1994).²⁶ This was the first case where VARA was used so decisively in favour of muralists.

The case is relevant to India, where similar site-specific works are created on government buildings, temples, and forts. While Indian law recognizes moral rights, it lacks a strong enforcement mechanism like VARA for murals attached to architecture owned by others.

5.5 Community-Led Protection: The Warli and Madhubani Models

While not strictly Pahari or mural, communities practicing Warli (Maharashtra) and Madhubani (Bihar) painting have taken proactive steps to protect their traditional art forms. By organizing cooperatives, applying for Geographical Indication (GI) tags, and developing copyright-based collective ownership models, these groups have asserted control over commercial reproduction. In 2007, the Warli community filed complaints against a multinational food chain for using Warli motifs in packaging without consultation or credit (WIPO, 2004).²⁷ Although the issue did not escalate legally, it created public awareness and pushed for better contractual safeguards. Pahari art communities could similarly benefit from such models, especially where individual authorship is unclear but collective heritage is strong.

6. Gaps, Challenges, and Ethical Dimensions

The protection of mural paintings and Pahari art from unauthorized copying is fraught with legal, practical, and ethical complexities. While existing frameworks offer some level of safeguard, there are significant gaps and obstacles that hinder meaningful protection and cultural justice. These challenges are further compounded by deeper questions of ownership, access, community rights, and the ethics of representation in the globalized art and heritage economy.

6.1 Legal Gaps and Practical Limitations

One of the most glaring gaps in the current system is the difficulty of enforcing legal rights over traditional and collective art forms. The Copyright Act, 1957, while progressive in recognizing moral rights, is structured around the notion of individual authorship. This model does not adequately account for:

- Communal authorship;
- Temporal distance;
- Lack of documentation.

Many Pahari and mural paintings are centuries old and were produced anonymously or by multiple artists, making claims of authorship under copyright law difficult to substantiate (Das, 2007).²⁸ Additionally, because these works often lack formal registration, they are presumed to be in the public domain and become easy targets for unauthorized use (Gokhale, 2020).²⁹

²⁶ *Carter v. Helmsley-Spear, Inc.*, 861 F. Supp. 303 (S.D.N.Y. 1994).

²⁷ World Intellectual Property Organization (WIPO). (2004). *Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities*.

²⁸ Das, S. (2007). Moral rights and cultural heritage: The Sehgal case revisited. *Journal of Intellectual Property Rights*, 12, 432–440.

²⁹ Gokhale, S. (2020). Cultural appropriation of traditional Indian art: Legal gaps and possible remedies. *NUJS Law Review*, 13(1), 24–38.

6.2 Weak Enforcement and Institutional Disconnect

While courts have supported moral rights, enforcement remains weak due to limited awareness and institutional inertia. For instance, conservation bodies like the Archaeological Survey of India (ASI) focus on structural preservation, not intellectual property or reproduction regulation (Kaw, 2001).³⁰ At the same time, coordination between central and state cultural bodies is fragmented, diluting regulatory authority and responsibility.

6.3 Cultural Sensitivity and Ethical Concerns

Unauthorized reproduction of sacred or historically significant artwork can lead to cultural misrepresentation and loss of meaning. When murals from temples or Pahari paintings featuring deities are reproduced for merchandise, the devotional and spiritual context is often lost, leading to aesthetic commodification (Bhargava, 2021).³¹ Cultural appropriation in such forms is particularly problematic when the source communities are neither credited nor consulted.

6.4 Access vs. Ownership: The Preservation Paradox

There exists a delicate balance between promoting public access and protecting cultural integrity. While digitization can aid education and archiving, it can also enable widespread copying if protective metadata or ethical guidelines are missing. This paradox often leads to heritage exploitation masked as promotion (Garfinkle, 2004).³²

6.5 Ethical Stewardship and the Role of Institutions

Museums, publishers, and educational platforms play a significant role in shaping the perception and use of cultural art. Their failure to adopt ethical practices—such as proper attribution, licensing, and collaboration with artist communities—can contribute to the erosion of heritage value. Scholars advocate for a shift from a "preservation-only" approach to one of **ethical cultural stewardship** (WIPO, 2004).³³

7. Safeguarding Pahari Art: Conservation and IP Strategies

Preserving mural paintings and Pahari art from unauthorized copying requires a multidimensional approach. Legal remedies alone are insufficient unless they are supplemented by community participation, institutional commitment, policy innovation, and technology-driven solutions. This section outlines a combination of **legal, non-legal, and community-based strategies** to safeguard the artistic, cultural, and moral integrity of these heritage forms.

7.1 Legal and Policy-Based Initiatives

Preserving mural paintings and Pahari art from unauthorized copying requires a multidimensional approach. Legal remedies alone are insufficient unless they are supplemented by community

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³¹ Bhargava, M. (2021). The phenomenal Pahari paintings and their implications in the social life of hilly regions of Himalayas. *International Journal of Social Science and Economic Research*, 6(10), 1780–1799.

³² Garfinkle, M. R. (2004). Protecting public art: Legal issues in the conservation of murals. *Getty Conservation Institute Publications*.

³³ World Intellectual Property Organization (WIPO). (2004). *Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities*.

participation, institutional commitment, policy innovation, and technology-driven solutions. This section outlines a combination of legal, non-legal, and community-based strategies to safeguard the artistic, cultural, and moral integrity of these heritage forms.

7.1 Legal and Policy-Based Initiatives

(a) Strengthening Moral Rights Enforcement

India already has the foundation for protecting visual art through moral rights under Section 57 of the Copyright Act, 1957. However, there is a pressing need to train law enforcement agencies and judges to recognize artistic integrity as a legal right. Further, enabling standing for communities or collectives—not just individual artists—is necessary in moral rights claims. Scholars argue that mural conservation projects funded by public authorities should include reproduction controls and artist participation (Das, 2007).³⁴

(b) Recognition of Traditional Knowledge and Cultural Expressions

Many international experts have emphasized that India must introduce a dedicated legal regime for protecting **Traditional Cultural Expressions (TCEs)**. Such models would offer cultural communities the ability to manage their expressions through collective rights and customary protocols (WIPO, 2004).³⁵ In the absence of this, communal artworks like Pahari paintings remain legally unprotected despite being culturally sacred.

(c) Mandatory Licensing for Reproduction of Public Heritage

Licensing norms must be developed to require that any commercial reproduction of murals or Pahari artworks—especially those within state-managed museums or ASI-protected monuments—must include consent and appropriate compensation. Public monuments lack clear policies for image licensing, which often results in commercial exploitation (Kaw, 2001).³⁶

(d) Use of Geographical Indications (GI)

Kangra and Basohli paintings already enjoy GI status, but the awareness and enforcement are poor at the local level. Many artisans are unaware of the GI framework or lack the institutional support to prevent misuse of their style. Regional GI cells and cooperative societies could help bridge this gap (Bhargava, 2021).³⁷

7.2 Non-Legal Strategies

(a) Digital Archiving and Documentation

Digital preservation of mural and Pahari artworks must go beyond scanning and uploading. The metadata should include origin, style, region, artist attribution (if known), and ethical licensing

³⁴ Das, S. (2007). Moral rights and cultural heritage: The Sehgal case revisited. *Journal of Intellectual Property Rights*, 12, 432–440.

³⁵ World Intellectual Property Organization (WIPO). (2004). *Protect and Promote Your Culture: A Practical Guide to Intellectual Property for Indigenous Peoples and Local Communities*.

³⁶ Kaw, M. K. (2001). *Cultural Heritage of Himachal Pradesh*. Indus Publishing.

³⁷ Bhargava, M. (2021). The phenomenal Pahari paintings and their implications in the social life of hilly regions of Himalayas. *International Journal of Social Science and Economic Research*, 6(10), 1780–1799.

information. Projects like these should be managed jointly by cultural institutions and local art communities to avoid further exploitation (Garfinkle, 2004).³⁸

(b) Community Engagement and Artisan Cooperatives

Successful models like those of the Warli and Madhubani artists show that when communities come together to form cooperatives, they can better protect, market, and profit from their traditional arts. Similar structures can empower Pahari artists to manage reproduction, licensing, and enforcement.

(c) Training and Public Education

Inclusion of mural and Pahari art in educational curricula, artist training workshops on copyright and GI, and awareness campaigns targeting designers and tourism professionals are necessary. Cultural preservation must become a public responsibility, not just a governmental or academic effort.

7.3 Technology-Enabled Solutions

(a) Blockchain for Provenance Tracking

Blockchain technology can be employed to track provenance and ensure that digital reproductions are tied to original records. Smart contracts can automatically ensure attribution and royalty sharing whenever an image is reused commercially (Gokhale, 2020).³⁹

(b) Augmented Reality and Virtual Conservation

AR and VR tools can be used to recreate fragile murals in immersive formats, which can then be used for public exhibitions and education. These digital surrogates reduce foot traffic in protected sites and prevent unregulated photographing.

(c) Mobile Apps for Copyright Awareness

Government-supported mobile apps in regional languages can help artists understand their legal rights, register their works, and report violations quickly and efficiently.

7.4 Contracts and Ethical Licensing Models

All stakeholders involved in exhibiting, publishing, or commissioning traditional artworks should adopt written agreements specifying terms of use. Museums, publishers, and tourism bodies should be legally required to adopt fair-use protocols and cultural attribution norms. The inclusion of such safeguards would reflect a more respectful and rights-based approach to cultural heritage.

8. Recommendations and Roadmap

Having examined the legal frameworks, challenges, and potential strategies for safeguarding mural paintings and Pahari art, it becomes clear that India needs an integrated and sustainable approach to curb unauthorized copying while simultaneously promoting preservation and fair use. The following

³⁸ Garfinkle, M. R. (2004). Protecting public art: Legal issues in the conservation of murals. *Getty Conservation Institute Publications*.

³⁹ Gokhale, S. (2020). Cultural appropriation of traditional Indian art: Legal gaps and possible remedies. *NUJS Law Review*, 13(1), 24–38.

recommendations serve as a comprehensive roadmap for policymakers, institutions, artists, and civil society actors.

8.1 Legal and Policy Reform

- **Strengthen Moral Rights Provisions:** Amend Section 57 of the Copyright Act to include provisions for community authorship and traditional art forms. Recognize collective and intergenerational creators in the legal definition of “author.”
- **Develop a Traditional Cultural Expressions (TCE) Law:** Draft legislation specifically aimed at protecting TCEs, allowing community ownership, benefit-sharing, and consent-based reproduction of traditional artworks.
- **Mandatory Licensing and Attribution:** Introduce legal obligations for licensing and attribution before any reproduction of heritage murals or Pahari paintings from protected sites, public archives, or collections.
- **Expand GI Awareness and Enforcement:** Increase funding and legal support for enforcement of Geographical Indications for Pahari painting styles. Establish regional GI cells in Himachal Pradesh and neighboring hill states to support artists.

8.2 Institutional and Administrative Measures

- **Create Heritage Art Registries:** State cultural departments and the Ministry of Culture should develop digital registries of heritage artworks, complete with metadata, origin details, and community custodianship status.
- **Establish Art Rights Cells:** Set up dedicated legal aid cells and advisory desks for traditional artists in collaboration with law universities, NGOs, and cultural ministries.
- **Protect Public Murals:** ASI and other conservation bodies should adopt mural protection protocols that include consent-based reproduction clauses and mandatory conservation ethics.

8.3 Community Empowerment and Education

- **Promote Cooperatives:** Facilitate the formation of artist cooperatives and federations with access to collective licensing, marketing tools, and legal literacy.
- **Offer IP Literacy Workshops:** Conduct regular training for traditional artists, students, and government officers on intellectual property rights and cultural heritage law.
- **Support Community Museums:** Encourage local heritage centers and museums run by communities to showcase authentic art and provide cultural context.

8.4 Technology and Innovation

- **Leverage Blockchain:** Promote the use of blockchain for provenance tracking and smart contracts in digital Pahari art transactions and mural documentation.
- **Develop Cultural IP Apps:** Launch government-backed mobile apps in regional languages to educate artists and enable quick reporting of copyright violations.

- **Use AR/VR for Education:** Build immersive virtual exhibits of endangered murals and miniature paintings that combine accessibility with strong IP controls.

9. Conclusion

The preservation of mural paintings and Pahari art is not merely a matter of cultural pride—it is an act of safeguarding India's historical consciousness and regional identities. These art forms have flourished over centuries, reflecting the spiritual, social, and aesthetic values of the communities that nurtured them. Yet, in the face of mass reproduction, digital appropriation, and commercial exploitation, they now stand at a crossroads. Unauthorized copying, often carried out without attribution or community consultation, threatens not just the economic interests of artists but the very integrity and dignity of these traditions.

This research has illustrated how mural paintings and Pahari art are vulnerable to exploitation due to legal ambiguities, weak enforcement mechanisms, and the lack of collective ownership frameworks under existing intellectual property laws. Although the Indian Copyright Act, particularly through Section 57 on moral rights, offers a foundational tool for protection, it remains largely underutilized, especially in the context of anonymous, traditional, or community-authored works. Similarly, while international conventions such as the Berne Convention and the UNESCO ICH Convention recognize the value of intangible cultural heritage, they stop short of offering enforceable rights to traditional custodians.

Through detailed case studies—from the *Amar Nath Sehgal* judgment to the 5Pointz mural litigation in the U.S.—we observe both the possibilities and the limitations of existing legal structures. What emerges clearly is the need for a hybrid approach—combining robust legal reform, ethical licensing, institutional accountability, community participation, and technological tools such as blockchain and digital archiving. The examples of Warli and Madhubani artist cooperatives and GI-based branding show that localized, community-driven solutions can be both culturally sensitive and economically sustainable.

At its core, this is not simply a legal battle but a question of justice—cultural, economic, and ethical. As India embraces a digital future and expands its global cultural footprint, it must also ensure that its policies and practices respect the past. Heritage is not just to be displayed; it must be protected, lived, and passed on with dignity. The muralist whose wall becomes a story, and the Pahari artist whose miniature captures eternity, both deserve not only celebration but the right to protect what is theirs.

In protecting these artistic legacies, we protect our shared humanity, rooted not in mass reproduction but in memory, craftsmanship, and meaning. The time for a stronger, more inclusive system of cultural protection is now.

REFERENCES AND BIBLIOGRAPHY

A. Statutes and Legal Instruments

1. The Copyright Act, 1957 (India).
2. The Geographical Indications of Goods (Registration and Protection) Act, 1999.
3. The Berne Convention for the Protection of Literary and Artistic Works, 1886.
4. UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, 2003.
5. Visual Artists Rights Act (VARA), United States, 1990.

B. Case Laws

1. *Amar Nath Sehgal v. Union of India*, 117 (2005) DLT 717 (Del HC).
2. *Garcia v. Google*, 786 F.3d 733 (9th Cir. 2015).
3. *Carter v. Helmsley-Spear, Inc.*, 861 F. Supp. 303 (S.D.N.Y. 1994).
4. *Leh Palace Conservation Case*, observations by ASI and local media reports (no official case citation; contextual reference).

C. Books and Book Chapters

1. B.N. Goswamy, *Pahari Masters: Court Painters of Northern India*, New Delhi: Niyogi Books, 1992.
2. Kapila Vatsyayan, *Indian Classical Paintings: Tradition and Continuity*, New Delhi: Publications Division, 2000.
3. Werner Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*, Cambridge: Cambridge University Press, 2006.
4. M.K. Kaw, *Cultural Heritage of Himachal Pradesh*, New Delhi: Indus Publishing Company, 2001.
5. Avni Sethi (Ed.), *Art, Heritage and Law*, Ahmedabad: Conflictorium Publication, 2019.

D. Journal Articles

1. Madhu Bhargava, "The Phenomenal Pahari Paintings and Their Implications in the Social Life of Hilly Regions of Himalayas: A Study on Artisan Ethnography and Community Life," *International Journal of Social Science and Economic Research*, Vol. 6, No. 10 (2021), pp. 1780–1799.

2. Sanchita Das, "Moral Rights and Cultural Heritage: The Sehgal Case Revisited," *Journal of Intellectual Property Rights*, Vol. 12 (2007), pp. 432–440.
3. Shubhangi Gokhale, "Cultural Appropriation of Traditional Indian Art: Legal Gaps and Possible Remedies," *NUJS Law Review*, Vol. 13, No. 1 (2020), pp. 24–38.
4. M.R. Garfinkle, "Protecting Public Art: Legal Issues in the Conservation of Murals," *Getty Conservation Institute Publications*, Los Angeles, 2004.

E. Online and Institutional Sources

1. UNESCO Intangible Cultural Heritage Portal: <https://ich.unesco.org>
2. WIPO Traditional Cultural Expressions Database: https://www.wipo.int/tk/en/databases/creative_heritage/
3. Getty Conservation Institute: <https://www.getty.edu/conservation/>
4. Map Academy, "Pahari Manuscript Painting," <https://mapacademy.io/article/pahari-manuscript-painting>
5. Wikipedia, "Amar Nath Sehgal v. Union of India," https://en.wikipedia.org/wiki/Amar_Nath_Sehgal_v._Union_of_India
6. PDX Street Art Legal Archive: <https://www.pdxstreetart.org/articles-all>
7. ResearchGate: Various open-access articles on mural and Pahari art
8. Indian Culture Portal (Government of India): <https://www.indianculture.gov.in>
9. WIPO Guide on IP and Cultural Heritage: https://www.wipo.int/edocs/pubdocs/en/tk/913/wipo_pub_913.pdf
10. Cultural Survival: <https://www.culturalsurvival.org/news/protecting-traditional-artists-rights>