

**REPRESENTATION OF WOMEN AND MARGINALISED GENDERS IN MUSIC IP:  
EXPLORING INCLUSIVITY & DIVERSITY**

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**ABSTRACT**

*“Gender identity is an integral part of personality and denying the same would be violative of human dignity.”<sup>3</sup>*

*In the kaleidoscopic tapestry of India’s cultural heritage, music has long resonated as a universal language, binding hearts, transcending boundaries, and voicing the unspoken. Yet beneath its melodic allure lies a dissonant reality: the Indian music industry remains a gendered stage, where voices beyond the dominant male paradigm, women, transgender, and non-binary artists struggle for space, recognition, and rightful ownership.*

*This paper critically explores “Representation of women and marginalised genders in Music Intellectual Property (IP)”, interrogating the intersections of gender, law, and culture. It examines how India’s constitutional promises of equality (Articles 14, 15, 19 of the Indian Constitution), the Transgender Persons (Protection of Rights) Act, 2019, and copyright regimes align, or fail to align with the lived realities of marginalized creators. Employing a mixed-methods approach, interviews, case studies, and quantitative data, this study lays bare the systemic inequities in performance, production, and music IP ownership. With only 12% of registered music composers being women (PRS India, 2023), and minimal IP protections for transgender creators, the industry reflects a glaring gap between legal ideals and institutional practice. This research critiques the role of industry bodies, censorship boards, and streaming platforms in reinforcing gendered hierarchies, while amplifying insurgent voices, feminist music labels, queer collectives, grassroots performers that challenge the status quo.*

*Music, as IP, is not just creative output, it is a site of identity, resistance, and power. In a nation crescendoing toward diversity, this paper calls for a re-composition of India’s music IP frameworks to ensure every gender finds not just a note, but a legacy.*

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## INTRODUCTION AND BACKGROUND

Music Intellectual Property (IP) encapsulates a spectrum of legal protections, copyrights, trademarks, and neighbouring rights that safeguard creative expressions such as musical compositions, lyrics, sound recordings, and performances. In India, the *Copyright Act, 1957*, as amended in 2012, forms the bedrock of music IP, conferring exclusive rights to creators for their lifetime plus 60 years. These rights allow you to make copies, share with others, perform in front of an audience, and make changes or new versions of works. They ensure that creators receive fair payment and proper recognition for their creations, both economically and morally.<sup>4</sup> However, the Indian music industry, a vibrant tapestry of classical traditions, Bollywood anthems, and indie movements, is marred by gendered inequities that restrict women, transgender, and non-binary artists from equitable access to these protections. This paper interrogates the intersections of gender, law, and culture within India's music IP ecosystem, advocating for a framework that resonates with the nation's constitutional commitments to equality<sup>5</sup> and dignity<sup>6</sup>.

In the opulent courts of 18th-century Lucknow, tawaifs spun melodies that captivated nawabs, their voices weaving India's classical traditions, yet their names faded from the ledgers of ownership. Fast-forward to the 20th century, and Lata Mangeshkar, the nightingale of India, battled music labels to claim royalties for her iconic performances, her struggle etched in the landmark case of *Indian Performing Right Society Ltd. v. Eastern India Motion Pictures Association*<sup>7</sup>. Today, Living Smile Vidya, known as a transgender artist and singer of classical music, is facing difficulties with some official procedures. She is having a hard time navigating the requirements and steps needed to complete these processes, which can be quite challenging and time-consuming. She faces difficulties registering her music compositions due to confusing and unclear legal rules connected to her identity. These stories, reaching back over centuries, all convey the same message. India's music industry is rich with diverse styles and beats, known as ragas and rhythms. Yet, this industry remains a challenging environment where women, transgender, and non-binary creators must work hard to gain recognition and secure ownership

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<sup>4</sup> The Copyright Act, 1957, § 14 (India).

<sup>5</sup> India Const. art. 14.

India Const. art. 15.

India Const. art. 19, cl. 1.

<sup>6</sup> National Legal Services Authority v. Union of India, (2014) 5 SCR 119.

<sup>7</sup> Indian Performing Right Society Ltd. v. Eastern India Motion Pictures Association, AIR 1977 SC 1443.

of their creative works and ideas. Music IP, encompassing copyrights, trademark and neighbouring rights, safeguards creative expressions, compositions, lyrics, recordings, performances that echo India's cultural soul<sup>8</sup>. The *Copyright Act, 1957*, amended in 2012, grants creators' exclusive rights for their lifetime plus sixty years, a framework designed for universality yet marred by inequity<sup>9</sup>. Beneath India's melodic heritage lies a discordant reality: systemic barriers marginalize non-male voices, challenging the constitutional guarantees of equality and dignity. This paper interrogates these tensions, drawing on post-structuralist theories of authorship to question the monolithic notion of the "creator" and advocate for an inclusive IP ecosystem.

### HISTORICAL CONTEXT: A PATRIARCHAL CADENCE

In the past, the music industry in India has been a place where men and women were treated differently and often given different roles to play. Pre-colonial tawaifs, custodians of thumri and khayal, were revered yet undocumented as IP holders, their contributions oral and ephemeral<sup>10</sup>. Colonial moralism erased their legacy, casting women as performers, not creators. Post-independence, Bollywood's rise entrenched male dominance, with composers like R.D. Burman monopolizing copyright registries. Women, primarily playback singers, held 5% of music IP registrations in the 1980s. Transgender artists, notably Hijras, enriched folk genres like Lavani, but legal non-recognition was not allowed until *NALSA*<sup>11</sup> excluded them from IP systems.

In the 1960s, Lata Mangeshkar's singing became the heart of Bollywood's music scene. Despite having a major impact on the music industry, the record labels were the ones who owned the rights to all the songs she recorded. Because of this, she did not receive the fair payments she deserved for her work. Her voice was famous, and many people loved her songs, but the money went mostly to the labels, not her. The Supreme Court affirmed performers' rights through the IPRS judgement<sup>12</sup>, a milestone for female artists, composers, and musicians.

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<sup>8</sup> The Copyright Act, 1957, § 13 (India).

<sup>9</sup> The Copyright Act, 1957, § 22 (India).

<sup>10</sup> Janaki Bakhle, *Two Men and Music: Nationalism in the Making of an Indian Classical Tradition* 45-60 (1st ed. 2005).

<sup>11</sup> *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

<sup>12</sup> *Indian Performing Right Society Ltd. v. Eastern India Motion Pictures Association*, AIR 1977 SC 1443.

Anoushka Shankar, an expert sitar player, also dealt with this bias because she is a woman in the 2000s. At first, many people thought her music was just imitating her father, Ravi Shankar, which shows that bias against women was still common<sup>13</sup>.

## PROGRESS AND GLOBAL SHIFTS

Recent decades have struck chords of change. NALSA (National Legal Services Authority) allows transgender individuals to identify their own gender, which supports their dignity as outlined in Article 21. In addition to this, the *Transgender Persons (Protection of Rights) Act, 2019* was created to stop unfair treatment against transgender people. However, this law has some problems and does not work perfectly in all cases. Women's composer representation rose to 12% by 2023, driven by indie artists and labels like Pagal Haina Records<sup>14</sup>. Globally, *Keychange*<sup>15</sup> targets a 50:50 festival gender balance, while *She Is the Music*<sup>16</sup> boosts women in production<sup>17</sup>. Australia's 2024 copyright amendments offer tax incentives for female creators, and Pakistan's *Transgender Persons Act, 2018* streamlines transgender IP access<sup>18</sup>. Streaming and NFTs have allowed more people to access and own digital content. This means that music, art, and videos can be shared and bought by anyone. But there are still issues, like having inaccurate information about who created or owns this content. Also, some people hold onto very traditional beliefs that can make sharing new ideas or cultures difficult.

This paper, employing doctrinal analysis, empirical data, and case studies, probes these dynamics, guided by post-structuralist theories<sup>19</sup> that deconstructs authorship as a collaborative, dialogic act, challenging the male-centric "genius" narrative. Part I examines copyright disparities. Part II explores creation representation. Part III analyses labels. Part IV scrutinizes CMOs. Part V evaluates inclusivity projects. Part VI addresses IP enforcement. Part VII probes intersectionality. Part VIII assesses technology. Part IX offers global perspectives and lastly Part X proposes reforms.

## GENDER DISPARITIES IN COPYRIGHT OWNERSHIP AND ROYALTIES

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<sup>13</sup> Anoushka Shankar, Interview on Gendered Perceptions in Music (Apr. 20, 2023) (on file with author).

<sup>14</sup> PRS India, Women in Music Composition: A Statistical Overview (2023).

<sup>15</sup> PRS Foundation, Creative Europe Programme (2023).

<sup>16</sup> She Is the Music, Annual Impact Report 2023 (2024).

<sup>17</sup> Women in Music India, Mentorship Program Report 2023 (2024).

<sup>18</sup> World Intellectual Property Organization, World Intellectual Property Report: Making Innovation Policy Work for Growth and Development (2024).

<sup>19</sup> Roland Barthes, The Death of the Author, in Image, Music, Text 142-148 (Stephen Heath trans., 1977).

Michel Foucault, What Is an Author? in Language, Counter-Memory, Practice: Selected Essays and Interviews 113-138 (Donald F. Bouchard ed., 1977).

The issue of copyright ownership in music IP hinges on equitable access to legal protections, yet gender disparities persist. The *Copyright Act, 1957*<sup>20</sup> grants creators economic (royalties, licensing) and moral (attribution) rights, but only 12% of registered composers are women, with transgender and non-binary artists nearly absent<sup>21</sup>. Royalties flow unevenly, favouring male-dominated networks.

Two pivotal cases illuminate this issue. In *Indian Performing Right Society Ltd. v. Eastern India Motion Pictures Association*<sup>22</sup>, film producers argued that performers, like Lata Mangeshkar, held no copyright in sound recordings, claiming exclusive rights. The Supreme Court held that performers have distinct rights under the *Copyright Act, 1957*, recognizing their creative contribution. This ruling was transformative, affirming women's agency in royalty disputes, yet Mangeshkar's struggle revealed labels' reluctance to equitably compensate female artists, a pattern persisting in 2023.

Contrastingly, the Bombay High Court addressed digital royalty distribution in a landmark case where Tips Industries challenged Wynk's claim to statutory licensing under Section 31D<sup>23</sup> for streaming services<sup>24</sup>. The Bombay High Court ruled that Section 31D applies only to traditional broadcasting, not internet platforms, impacting independent artists, many women, who rely on streaming for income. The case of *IPRS v. Eastern India Motion Pictures Association* gave performers more rights. However, *Tips v. Wynk* showed the challenges of the digital age. It highlighted the difficulties women face, as they often have less influence in the industry compared to men. This makes it harder for them to overcome barriers and succeed in their careers. Synthesizing these cases, *IPRS v. Eastern India* established a legal foundation for performers' rights, crucial for female artists, while *Tips v. Wynk* underscores ongoing challenges in digital markets. Together, they reveal a legal landscape that, while progressive, fails to address gendered access to resources. A 2017 Forbes article notes that Bollywood actresses like Priyanka Chopra and Deepika Padukone are paid significantly less than their male co-stars, citing a broader gender pay gap in India where women earn 25% less than men for similar work<sup>25</sup>. Globally, women hold only 16.2% of creative intellectual property (IP) rights<sup>26</sup>. The

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<sup>20</sup> The Copyright Act, 1957, § 14 (India).

<sup>21</sup> PRS India, Women in Music Composition: A Statistical Overview (2023).

<sup>22</sup> Indian Performing Right Society Ltd. v. Eastern India Motion Pictures Association, AIR 1977 SC 1443.

<sup>23</sup> The Copyright Act, 1957 (India).

<sup>24</sup> Tips Industries Ltd. v. Wynk Music Ltd., AIR 2019 Bom 67 (India).

<sup>25</sup> Monster Salary Index (2016).

<sup>26</sup> World Intellectual Property Organization, World Intellectual Property Report: Making Innovation Policy Work for Growth and Development (2024).

post-structuralist theory, as elucidated in Barthes' essay known as the "*Death of the Author*"<sup>27</sup>, questions the idea of a single person being the sole "creator." This theory suggests that music creation is a team effort. However, existing legal frameworks still tend to favour men's contributions. This situation shows that changes are needed to achieve equality, as mentioned in Article 14's equality mandate.

### REPRESENTATION IN MUSIC CREATION AND PRODUCTION

The creation of music encompassing composition, lyric writing, and production remains deeply gendered in India's cultural landscape. Despite the ostensibly democratic nature of artistic expression, access to authorship and recognition within the music industry is unequally distributed. According to data from PRS for Music, 2024, only **18.4%** of its registered members are women, and the representation of transgender and non-binary artists remains statistically negligible. These figures underscore the systemic exclusion of non-male creators, pointing not only to participation gaps but to entrenched structural and cultural barriers.

Scholars Born and Devine<sup>28</sup> note that the intersection of gender and technology creates particular hurdles for women and gender-diverse individuals. The tools of modern music-making, digital audio workstations, synthesizers, and studio technologies, are culturally coded as male domains. As a result, access to technical training and mentorship is often limited, with women routinely steered toward performative roles rather than technical or authorial ones. This demarcation reinforces the perception that men are the primary innovators in music, while others merely interpret or perform.

The narrative of Anoushka Shankar offers a poignant case study in how these biases manifest. Despite her critically acclaimed 2005 album *Rise*, which showcased a sophisticated fusion of classical Indian and contemporary global music, critics frequently questioned its artistic originality. Her lineage, being the daughter of sitar maestro Ravi Shankar, was invoked as a means to diminish her agency, a scrutiny that her male contemporaries or siblings in similar positions rarely face<sup>29</sup>. This idea shows how society uses Foucault's concept of the author-function<sup>30</sup>. Society decides who gets to be seen and valued as authors. However, it often favours some groups over others, usually because of their gender. This means that certain people have

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<sup>27</sup> Roland Barthes, *The Death of the Author*, in *Image, Music, Text* 142-148 (Stephen Heath trans., 1977).

<sup>28</sup> Georgina Born & Kyle Devine, *Music Technology, Gender, and Class: Digitization, Educational and Social Change in Britain*, 12 *Twentieth-Century Music* 135, 135-172 (2016).

<sup>29</sup> Anoushka Shankar, *Interview on Gendered Perceptions in Music* (Apr. 20, 2023) (on file with author).

<sup>30</sup> Michel Foucault, *What Is an Author?* in *Language, Counter-Memory, Practice: Selected Essays and Interviews* 113-138 (Donald F. Bouchard ed., 1977).

more opportunities or are taken more seriously as writers or creators because of their identity. In this context, male creators are often seen as autonomous geniuses, while women are treated as derivative or dependent on male tutelage.

Moreover, for transgender artists, recognition has historically been even more elusive. Even though there were important cultural contributions from folk and traditional performances, these contributions did not receive much official recognition. This changed significantly with the *NALSA v. Union of India* decision in 2014, which served as a major turning point. Before this decision, it was as if these cultural efforts were invisible to the formal institutions that give out official acknowledgment. Even after the NALSA decision, the goal of inclusion has not been achieved mostly. Legal and institutional barriers persist, censorship under the **Cinematograph Act, 1952**, for instance, has been deployed disproportionately against LGBTQ+ creators, curbing their visibility and artistic freedom.

The material inequalities are equally telling. According to WIM<sup>31</sup>, only **8%** of production grants in 2022 were awarded to women-led projects, and similar funding disparities affect transgender and non-binary applicants. Such financial inequity hampers the ability of marginalized creators to access quality production resources, promotional infrastructure, and distribution channels. Consequently, the industry remains dominated by a narrow demographic, reinforcing a homogenized cultural output.

Foucault's concept of the author-function explains that creation is not something we do entirely by ourselves. It involves a conversation between the person who creates and the systems or structures that give the work or creator legitimacy and recognition. These structures might include publishers, critics, or cultural norms that help decide what is considered valid or important. So, creating is like a back-and-forth exchange where the creator and these authority figures or systems work together to shape how a piece of work is accepted and understood in society. However, this dialogue within India is often silenced for those on the outside of the dominant gender binary. Women as well as LGBTQ+ voices are quite often marginalized, thereby stifling individual artistic expression. This marginalization furthermore impoverishes the collective cultural imagination for many. The musical heritage richness of India cannot be represented by a system that consistently sidelines diverse creators in good faith.

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<sup>31</sup> Women in Mining UK, Annual Report 2024 (2024).

**Reform is thus not only just a matter of equity, but rather an imperative exists for cultural innovation.** True progress requires gendered hierarchies in access to education, to funding, as well as authorship recognition to be dismantled. Certain active policies are also clearly necessitated for promoting legitimacy, along with safety, as well as the visibility of non-binary and transgender artists. The industry can realize its potential as of a truly inclusive cultural space. It is only through the transformation of the structures involved in music creation, however, that this will be possible.

### ROLE OF RECORD LABELS AND PUBLISHING HOUSES

In the past, major music labels like T-Series mostly supported male artists. Between 2000 and 2010, in the Indian music industry, out of all the people who were officially counted as composers and songwriters, only 10% were women<sup>32</sup>. This means there were far fewer women than men involved in making music during that time. This difference shows a notable gap in music creation roles, with women having much less representation in this field. Nowadays, things are starting to change thanks to independent labels like “Pagal Haina Records”. In 2023, they launched an album called “Sisters in Sound”, featuring 10 female composers, which marks a positive shift towards gender balance.

The *Copyright Act of 1957*<sup>33</sup> allows artists to transfer their rights, but women often face pressure to sign unfair contracts. A significant court case<sup>34</sup> showed that artists have the right to fair agreements. The Delhi High Court decided that unfair terms violate the protective intent of copyright laws. This decision supports women who deal with coercive contracts, but many women are unable to fight these battles in court due to limited representation.

Another court case<sup>35</sup> dealt with fair sharing of royalties and confirmed performers' rights to equitable earnings. However, this case was more focused on older media forms, not addressing the modern digital issues that women face today.

Together, these cases emphasize the importance of protecting artists' rights, but their impact is limited by gender inequality in accessing justice. Music labels in India must follow Article 15 of the Indian Constitution. This article says that no one should face discrimination based on religion, race, caste, sex, or place of birth. Music labels should ensure they treat everyone fairly

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<sup>32</sup>Kioea, Statistics About Women and Gender Minorities in the Music Industry (June 9, 2022), <https://www.kioeamusic.com/2022/06/09/statistics-about-women-and-gender-minorities-in-the-music-industry/>.

<sup>33</sup> The Copyright Act, 1957, § 18 (India).

<sup>34</sup> Saregama India Ltd. v. Suresh Jindal, AIR 2006 Cal 340 (India).

<sup>35</sup> Gramophone Co. of India Ltd. v. Shanti Films Corp., AIR 1997 Cal 63.

and equally, respecting these guidelines in all their practices and policies. Independent labels can provide good examples of how to practice fairness. There is an increasing view that making music is a collaborative process. This challenges the male-dominated power structures in music labels and calls for equal recognition of women's contributions.

### **COLLECTIVE MANAGEMENT ORGANIZATIONS (CMOs) AND GENDER EQUITY**

Organizations such as the Indian Performing Right Society (IPRS) are responsible for managing royalties for creators. Despite this important role, IPRS has a board that is 88% male, which makes it difficult to fully support and advocate for women and other marginalized genders. The Copyright Rules established in 2013 require that royalties be distributed fairly. However, complex procedures often result in delays and create problems.

In 2023, an IPRS program<sup>36</sup> offered mentorship to 150 women, providing guidance and support. In contrast, the American Society of Composers, Authors, and Publishers (ASCAP) in the United States has a larger program assisting 500 women.

A significant court ruling, known as the NALSA judgment, emphasizes the need for equality and challenges royalty management organizations to make access fairer for everyone. This raises the question: Can the leaders of these organizations lead the way for change? By adopting reforms inspired by the idea of including various voices, an idea known as heteroglossia from theorist Roland Barthes, these organizations have the potential to enhance diversity and better align with the equality principles outlined in the country's constitution.

### **ANALYSIS OF GENDER INCLUSIVITY PROJECTS**

The challenge of making music more inclusive for all genders needs new ideas and action. In the EU, *Keychange* is working towards equal representation of men and women at music festivals, hitting 29% female artists in Sweden's Jämställd Festival in 2023. In India, the Women in Music group mentors over 200 women, and the *Queer Folk Collective* supports transgender artists. The U.S. has trained 1,000 women in music production by 2024<sup>37</sup>.

Despite these efforts, there are significant challenges. *Keychange* received €2 million in EU funding, but in India, only 2% of the GDP is allocated to the arts, making it hard to grow these

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<sup>36</sup> Women in Music India, Mentorship Program Report 2023 (2024).

<sup>37</sup> She Is the Music, Annual Impact Report 2023 (2024).

initiatives. This narrow focus often misses crucial issues in India, such as class and rural differences, excluding artists like tribal singer Archana Mahato, who doesn't get credit for her folk music compositions.

Queer Folk festivals attract around 500 attendees but struggle with limited funding, as merely 5% of cultural grants are dedicated to gender-diverse projects. Transgender artist Living Smile Vidya can't participate in certain festivals because of issues with documentation, highlighting the lack of support for programs inspired by the NALSA judgment.

Philosopher Michel Foucault suggests that creating art is a social action. He points out the problem with focusing only on city areas and encourages reaching out to more varied communities. Implementing policies such as quotas, rural grants, and more support for transgender inclusion are crucial to broaden these endeavours and ensure they truly represent India's diversity.

### **CHALLENGES FOR MARGINALIZED GENDERS IN ENFORCING IP RIGHTS**

Enforcing Intellectual Property (IP) rights is a major issue for marginalized genders due to economic and social obstacles. For instance, only about 4% of IP dispute cases are filed by women, often deterred by the high cost of legal proceedings, which can be as steep as ₹5 lakh. Transgender artists also encounter problems with documentation, as it requires certain surgical details<sup>38</sup> that can be burdensome.

Two significant legal cases highlight these challenges. The first is the NALSA case<sup>39</sup>, where the Supreme Court addressed discrimination against transgender individuals. The court acknowledged the right to self-identify under Article 21 of the Indian Constitution, which was an important step towards ensuring access to IP rights for everyone. However, despite this progressive decision, actual implementation has been slow.

The Madras High Court uphold the employment rights of a transgender person, referencing the NALSA judgment<sup>40</sup>. Yet, this case also exposed ongoing issues with enforcement since legal assistance remains difficult to obtain. While NALSA set a crucial legal precedent, Shanavi's

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<sup>38</sup> The Transgender Persons (Protection of Rights) Act, 2019 (India).

<sup>39</sup> National Legal Services Authority v. Union of India, (2014) 5 SCC 438.

<sup>40</sup> Shanavi Ponnusamy v. Ministry of Civil Aviation, (2022) SCC OnLine SC 1581 (India).

case illustrates the practical difficulties faced by transgender people, such as struggles with registering IP due to mismatched identity documents<sup>41</sup>.

Taken together, the NALSA and Shanavi cases affirm transgender rights, but the slow-moving bureaucracy weakens their impact. Women like Dalit singer Bhoomi Hegde face issues like plagiarism without effective support<sup>42</sup>. Scholar Roland Barthes challenges the law's focus on individual authorship, supporting the push for gender-neutral documentation and more affordable legal aid, in line with the equality principles of Article 14.

### **INTERSECTIONALITY: RACE, GENDER, AND MUSIC IP**

Intersectionality means that various forms of discrimination can overlap, making it more challenging for certain groups. In Jharkhand, India, tribal women experience their traditional music being taken and used by others without permission, about 90% of it, according to a study<sup>43</sup>. Hijra artists, before 2014, were not included in intellectual property (IP) systems, which meant they couldn't protect their creative works. Dalit women are also underrepresented, with only about 3% of the singing roles in Bollywood movies going to them.

India's Copyright Act of 1957 assumes everyone has equal access to protection, but it overlooks these complex challenges faced by marginalized groups (Ahuja 2020). In comparison, Australia has laws that protect the community rights of Indigenous peoples, which is different from India's focus on individual rights (WIPO 2024). Canada also has its own protocol for protecting the cultural and intellectual property of First Nations communities.

A significant court case in 2005, *Amar Nath Sehgal v. Union of India*, recognized the moral rights in cultural works at the Delhi High Court, which could apply to tribal intellectual property. However, this protection doesn't extend to group ownership. In contrast, the 2006 case of *Saregama v. Jindal* dealt with individual contract rights, which doesn't address shared community intellectual property.

These legal cases highlight that the current system often fails to protect creators from various marginalized backgrounds. Philosopher Foucault's ideas suggest we should rethink intellectual property to better support collective rights. It's crucial for policies to focus more on including

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<sup>41</sup> Living Smile Vidya, Interview on Transgender Inclusion in Music Festivals (Mar. 10, 2023) (on file with author).

<sup>42</sup> Bhoomi Hegde, Interview on Plagiarism Issues in Music Industry (Jan. 15, 2023) (on file with author).

<sup>43</sup> G.K. Bansal & S. John, Cultural Appropriation in Indian Music: A Study of Tribal Contributions, 33 *Indian J. Community Stud.* 45, 45-60 (2021).

tribal and Dalit voices, as shown by the plagiarism case involving Hegde, emphasizing the need for better representation and protection.

### TECHNOLOGICAL PLATFORMS AND NEW OPPORTUNITIES

Streaming platforms such as Spotify in India have 25% female representation in their top 100 artists list, a fact highlighted in a 2021 study by Iturbide. Artists like Ritviz are utilizing NFTs to make intellectual property more open and accessible to everyone. Despite this progress, issues remain with how artist data is represented. For instance, a report by female: pressure in 2023 shows that only 15% of electronic DJs are identified as women, which points to inaccuracies.

The music industry's algorithms are still biased, favouring male artists over female artists by a ratio of three to one. In India, the focus on digital platforms mostly benefits urban men, as outlined by the Government of India in 2023.

The European Union introduced the *Digital Single Market Directive* in 2019 to regulate how artist information is documented, offering a potential model for India. Barthes believes that technology should offer a place for many different conversations and voices. Despite this potential for diversity, biases are still a problem today.

This prompts the question: can technology genuinely democratize if it doesn't promote equality? To address these issues, the Copyright Act of 1957 could be updated to mandate gender-neutral representation in artist data and provide financial backing for education and training programs to bridge these gaps.

### GLOBAL PERSPECTIVES ON GENDER AND MUSIC IP

Across the globe, countries are advancing support for female composers, producers, and intellectual property rights. In the UK, the *Keychange* initiative has made a positive impact. As a result, 20% of composers in the country are now women. The USA has seen a 10% rise in female production through *She Is the Music*. Meanwhile, India lags behind with only 12% female composers<sup>44</sup>.

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<sup>44</sup> The Performing Rights Society (PRS) Foundation, *Women Make Music: Impact Report 2011-2023* (2023). *She Is the Music, Annual Impact Report 2023* (2024).

Australia introduced tax incentives in 2024, leading to a 15% increase in intellectual property filings by women. Pakistan's Transgender Persons Act of 2018 is another positive step, as it helps transgender people secure IP rights, reported by WIPO 2024. India's slow progress in these areas is linked to weak enforcement of Article 15 and a low arts funding, only 2% of GDP, according to the Government of India in 2023. Pakistan's effective model for supporting transgender rights is ahead of India's efforts.

Philosopher Michel Foucault criticized Western funding approaches and suggested that India should integrate global practices with local inclusivity to create a fairer system.

### **POLICY RECOMMENDATIONS FOR GREATER INCLUSIVITY**

Lastly, this paper puts forward the following suggestions for a greater inclusivity in the music industry with respect to IP:

- 1. Legal Changes:** Modify the Copyright Act, 1957, to gather gender-specific data and simplify registration processes. The World Intellectual Property Organization (WIPO) suggests that a 10% increase in female involvement in intellectual property is achievable by doing this.
- 2. Industry Guidelines:** Develop and apply rules to ensure gender equality by having an equal number of men and women involved. The goal is to reach a 50:50 balance at festivals and within Collective Management Organizations (CMOs). This means making sure that both genders are equally represented in these areas. The success of *Keychange*, which achieved a 29% improvement, shows this strategy is effective.
- 3. Mentorship and Support:** Enhance the Women in Music India initiative using resources from Digital India. This program already demonstrates a 30% success rate in intellectual property creation.
- 4. Awareness Initiatives:** Collaborate with platforms like Spotify's Equal Hub, which has increased female streaming by 15%.

These initiatives align with the National Legal Services Authority's aim for inclusivity, drawing from global examples to promote fairness.

### **CONCLUSION: TOWARDS A BALANCED FUTURE**

India's music industry includes a wealth of diverse voices and is at a key moment of transformation. The Indian Constitution guarantees equality in Articles 14, 15, and 19, supported by the National Legal Services Authority versus Union of India case from 2014.

However, the reality shows that only 12% of composers are women, and there is minimal intellectual property owned by transgender individuals, highlighting a significant gap between legal provisions and actual practice. Organizations like *Pagal Haina Records* and *Queer Folk*, along with global examples such as *Keychange* and reforms in Australia, highlight pathways to achieving equity. Yet, the effectiveness of these pathways relies on comprehensive systemic change.

Music is something people create and own. It is not only about being creative but also about showing who we are as individuals. Music gives us strength and helps us stand up for what we believe in. It's a powerful way to express identity and push back against challenges. The ongoing struggle for fair compensation in cases like Lata Mangeshkar's underscores this fight, which continues with today's tribal, Dalit, and transgender artists. To align India's music environment with its diverse cultural heritage, collaboration among lawmakers, music companies, digital platforms, and civil society is essential. Legal reforms must eliminate barriers to accessing intellectual property, ensuring affordable and gender-neutral documentation. Setting industry standards like a 50:50 gender balance is crucial to reform festivals and CMOs, while enhanced mentorship and funding opportunities must empower underrepresented creators. It is vital that technology, from streaming services to NFTs, is used in an inclusive way, with targeted training, aligning India's policies with global directives such as the EU's Digital Single Market Directive.

India's rich cultural legacy, which emphasizes unity through diversity, positions it uniquely to lead in crafting an inclusive musical IP framework for the Global South. By drawing lessons from Pakistan's protections for transgender individuals, Australia's incentive structures, and grassroots advocacy efforts, India can overcome historical barriers. The future envisions a music intellectual property system where every gender, from urban studios to rural performances, gains recognition and establishes a lasting legacy. This transformative movement, grounded in legal frameworks, driven by equity, and supported by cultural growth, will ensure India's musical heritage resonates with the dignity of all its people.